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Note by the President of the Security Council

At its 6199th meeting, held on 13 October 2009, in connection with the item entitled "Reports of the Secretary-General on the Sudan", the Security Council adopted resolution 1891 (2009). In paragraph 2 of the resolution, the Security Council requested the Panel of Experts established pursuant to resolution 1591 (2005) to provide a final report to the Council with its findings and recommendations.

Accordingly, the President hereby circulates the report of the Panel of Experts dated 20 September 2010 (see annex).

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Annex

Letter dated 12 November 2010 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council

I have the honour to transmit herewith the final report of the Panel of Experts on the Sudan as requested by the Security Council in paragraph 2 of resolution 1891 (2009).

The attached report was presented to the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan on 4 October 2010, and was considered in the Committee on 20 October 2010.

I will present to the Security Council shortly the Committee's views on the report, and any follow-up to the recommendations contained therein.

(*Signed*) Thomas **Mayr-Harting**
Chairman
Security Council Committee established pursuant to
resolution 1591 (2005) concerning the Sudan

Enclosure

Letter dated 20 September 2010 from the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005) addressed to the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

On behalf of the members of the Panel of Experts established pursuant to Security Council resolution 1591 (2005), I have the honour to transmit herewith the report of the Panel prepared in accordance with paragraph 2 of Security Council resolution 1891 (2009).

(*Signed*) Thomas W. **Bifwoli**
Coordinator
Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)

(*Signed*) Abdelaziz **Abdelaziz**
Expert

(*Signed*) Nils Holger **Anders**
Expert

(*Signed*) Kadarou **Sako**
Expert

(*Signed*) Bahlakoana **Shelile**
Expert

Report of the Panel of Experts on the Sudan established pursuant to resolution 1591 (2005)

Summary

The security situation in Darfur remains precarious, despite claims by the Government of the Sudan that the situation has improved markedly when compared to previous years. Armed clashes take place between Government forces and rebel groups, as well as between and within rebel groups themselves, resulting in the death and displacement of civilians. Insecurity is further aggravated by armed violence that is committed by non-governmental actors not directly participating in the conflict. The tremendous human suffering caused by this insecurity in Darfur remains deserving of sustained international attention and efforts to promote peace and stability and to ameliorate the situation of the thousands of civilians affected by the violence.

The arms embargo, which is intended to limit the ability of belligerents to engage in armed violence, remains without discernable impact and ammunition, especially, has continued to enter Darfur since 2005. Indeed, ammunition produced after 2005, and consequently transferred to Darfur after the imposition of the embargo, is documented as being in the hands of various belligerents and non-belligerents responsible for the insecurity in Darfur. Apart from acquiring such ammunition through trafficking from abroad, rebel groups also procure ammunition through attacks on Government forces within Darfur, including attacks on Government convoys. In addition, attacks on convoys carrying fuel and other goods provide rebel groups with logistical supplies from within Darfur.

The Government of the Sudan categorically rejects the notion that it violates the embargo. At the same time, it confirms having repatriated armed personnel to Darfur since 2005, as well as to having transferred 12,000 armed police personnel to Darfur in recent years. The Government of the Sudan also reaffirms that, in its understanding, the arms embargo would only pertain to military materiel transferred to the Sudanese Armed Forces (SAF) in Darfur for the purposes of engaging armed rebel groups. The Government of the Sudan explicitly excludes the supply of arms and ammunition to other Government actors in Darfur, such as the Central Reserve Police (CRP), from the scope of the embargo. It supports its interpretation of the embargo by claiming that if actors other than SAF, such as CRP, clash with rebels it would only be for defensive purposes.

According to the Government of the Sudan, military aviation assets used for purposes other than engaging rebel groups in Darfur are also exempt from the embargo. Specifically, it asserts that the transfer or temporary deployment to Darfur of such assets for use in border surveillance flights or for ensuring a strategic military balance with neighbouring countries would not be covered by the embargo. The Government of the Sudan used these arguments to justify, among other things, the temporary presence of a new type of fighter jet in Darfur in recent months. Furthermore, the Government of the Sudan does not deny the bombing of rebel positions in Darfur in the first half of 2010, but it strongly rejects, as anti-government propaganda, reports of the killings of civilians in some such instances.

Human suffering in Darfur also continues through violations of international humanitarian law and human rights that are perpetrated by various belligerents. Such violations include attacks against civilians, peacekeepers and humanitarian aid workers, as well as the failure to protect civilians from attacks against them. Other violations relate to: the right to life; the right not to be subjected to arbitrary arrest and detention; the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment; and the right not to be denied effective remedy for serious violations of human rights. In addition, there is evidence that sexual and gender-based violence continues unabatedly in Darfur, despite an alleged decrease in the number of cases that are reported by victims.

Moreover, insecurity in Darfur is no longer caused by belligerents only; it is also caused by non-governmental actors not directly participating in the clashes between the Government and rebel groups. A clear example is the inter-tribal fighting that caused more than 600 deaths and the displacement of thousands of households in Darfur in the first half of 2010. Apart from the attacks on convoys in Darfur, there have also been lethal attacks on international peacekeepers as well as kidnappings of international peacekeepers and humanitarian aid workers and hijackings of their vehicles. The latter attacks, kidnappings and hijackings do not appear to feed directly into the conflict between belligerents, but they have clear linkages to the conflict.

Regarding the targeted travel and financial sanctions imposed by the Security Council on four individuals, no concrete action by the Government of the Sudan to implement those measures could be documented. Rather, the Government of the Sudan affirms that it does not recognize, and disagrees with, the designation of two of the individuals, who, it argues, were unjustly subjected to the measures.

On a more positive note, some progress was achieved in the political and peace processes. Of particular note here is the normalization of relations between the Governments of Chad and the Sudan in early 2010 and the establishment of a Joint Border Force to monitor and secure their common border. In contrast, the Government of the Sudan recently reported the closure of the border between the Sudan and the Libyan Arab Jamahiriya, citing banditry and rebel movements as the reason.

Two prominent rebel forces are, at the time of writing, not participating in the Darfur peace negotiations in Doha. However, various other rebel groups have joined the Doha process and merged into one group with which the Government of the Sudan continues to negotiate a peace agreement. The Doha process continues to offer, therefore, prospects of a peace agreement between the Government and at least some rebel groups.

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Abbreviations

CRP	Central Reserve Police
FRM	Frees and Reforms Movement
JEM	Justice and Equality Movement
JRM	Justice and Reforms Movement
LJM	Liberation and Justice Movement
MI	Military Intelligence
MINURCAT	United Nations Mission in the Central African Republic and Chad
NISS	National Intelligence and Security Service
SAF	Sudanese Armed Forces
UNAMID	African Union-United Nations Hybrid Operation in Darfur
UNHCR	Office of the United Nations High Commissioner for Refugees
UNMIS	United Nations Mission in the Sudan
SLA	Sudan Liberation Army
SLA/AW	Sudan Liberation Army/Abdul Wahid faction
SLA/MM	Sudan Liberation Army/Minni Minawi
SPLM/A	Sudan People's Liberation Movement/Army

I. Introduction

1. The present report has been prepared in accordance with paragraph 2 of Security Council resolution 1891 (2009). This is the seventh formal report submitted by the Panel of Experts on the Sudan and should be read in conjunction with the previous reports. The Panel notes in this context that it received information from several States and non-governmental actors in response to requests made under previous mandates and has included such information, where relevant, in the present report.

2. The Panel was established by the Security Council in paragraph 3 (b) of its resolution 1591 (2005) of 29 March 2005. The Panel's mandate has since been extended by resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007), 1841 (2008) and, most recently, 1891 (2009).

3. By paragraphs 7 and 8 of resolution 1556 (2004), the Security Council imposed an arms embargo on all non-governmental entities and individuals, including the Janjaweed, operating in the states of Northern Darfur, Southern Darfur and Western Darfur. By paragraph 7 of resolution 1591 (2005), the Council extended the arms embargo to include all parties to the N'Djamena Ceasefire Agreement and any other belligerents in the aforementioned areas. By paragraphs 3 (d) and 3 (e) of resolution 1591 (2005), the Council also imposed targeted travel and financial sanctions on designated individuals.

4. The Panel operates under the direction of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan. The mandate of the Panel, as set out in that resolution, is to:

- Assist the Committee in monitoring implementation of the arms embargo
- Assist the Committee in monitoring implementation of the targeted travel and financial sanctions
- Make recommendations to the Committee on actions the Security Council may want to consider

5. Furthermore, the Panel is identified as a source of information for the Committee on individuals who:

- Impede the peace process
- Constitute a threat to stability in Darfur and the region
- Commit violations of international humanitarian or human rights law or other atrocities
- Violate the measures implemented by Member States in accordance with paragraphs 7 and 8 of resolution 1556 (2004), and paragraph 7 of resolution 1591 (2005) as implemented by a State; or
- Are responsible for offensive military overflights

6. By resolution 1891 (2009), the Council also requested the Panel:

- To coordinate its activities as appropriate with the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and with international efforts to promote the political process in Darfur

- To assess in its interim and final reports progress towards reducing violations by all parties of the arms embargo
- To assess in its interim and final reports progress towards removing impediments to the political process, threats to stability in Darfur and the region and other violations of resolutions 1556 (2004) and 1591 (2005)

7. The Secretary-General initially appointed the following four experts to serve during the current mandate on the Panel: Abdelaziz Abdelaziz (United States of America), Nils Holger Anders (Germany), Thomas W. Bifwoli (Kenya) and Bahlakoana Shelile (Lesotho). Those members of the Panel assembled in New York on 11 January 2010. A fifth expert, Kadarou Sako (Côte d'Ivoire), joined the Panel in March 2010. Mr. Bifwoli was designated to serve as Coordinator of the Panel of Experts.

8. The Panel wishes to acknowledge the contributions of the following consultants: Sheerin Al-Araj, Ghada Attieh, Maya Chidiac, Jonah Leff and Brian Johnson-Thomas. Those consultants supplemented the experts' work in the areas of arms and cross-cutting issues, aviation, sexual and gender-based violence, and provided assistance with the Arabic and French languages.

II. Programme of work

9. Under its current mandate, the Panel first met with the Committee on 12 January 2010. During the same week, the Panel held bilateral meetings with the delegations of various Member States and attended briefings provided by relevant departments of the United Nations Secretariat, before proceeding to Addis Ababa, where it re-established its base. After receiving single-entry visas to the Sudan in Addis Ababa, the Panel conducted its first mission to the Sudan, starting on 3 February 2010.

10. While in the Sudan, the Panel met and re-established continuous interaction with officials from both the United Nations Mission in the Sudan (UNMIS) and UNAMID. Cooperation with those two Missions is key to the operations of the Panel. The Panel also interacted on a regular basis with the Joint African Union-United Nations Chief Mediator for Darfur. A non-exhaustive list of persons and organizations with whom/which the Panel met is attached as an annex to the present report.

11. The Panel subsequently maintained a continual presence in Darfur until mid-August 2010 and frequently stayed in the three capital cities, El Fasher, Nyala and El Geneina. It conducted several field missions, including to the following areas: Mellit, Sayah, Malha, Nertiti, Zalingie, For Baranga, Kass and Ed Daein. Furthermore, the Panel visited camps for internally displaced persons in Darfur, including Al Salam, Abu Shok, Zam Zam, Abbassi, Hassahissa, Kalma, Yahia Hajar, El Batary (A, B and C) and Atash. Planned field missions to Jebel Moon, Sirba, Silea, Kulbus, Korma, Deribat and Jebel Oda were not carried owing to restrictions imposed by the parties to the conflict and the security situation in Darfur.

12. In March, April and May 2010 some members of the Panel travelled to Chad. Those missions to Chad included travel to Abéché, Iriba and Tine, where the Panel met with officials of the Government, the United Nations Mission in the Central African Republic and Chad (MINURCAT) and United Nations agencies, and with

other interlocutors. Panel members travelled to Doha, the venue of the Darfur peace talks, to interact with stakeholders in March, April and June 2010. Other locations to which Panel members travelled were Germany, Kenya, Lebanon, South Africa, Uganda and the United Kingdom of Great Britain and Northern Ireland.

13. During the current mandate, the Panel presented its interim report to the Committee on 29 March 2010; and a progress report on 24 May; and delivered its midterm briefing, which was accompanied by a written report, on 7 July. The present final report incorporates findings contained in the above-mentioned reports.

III. Methodology of work

A. General

14. Upon assembling in January 2010, the Panel developed its methodology and approach to work. To uphold the highest level of professionalism, the Panel agreed on maintaining objectivity, impartiality and transparency in the implementation of its mandate. While the Panel takes cognizance of the political environment in which it operates, it views and defines its mandate as purely technical and reliant on the maintenance of the Panel's independence.

B. Working principles

1. Impartiality

15. The Panel agreed that it must apply the principle of impartiality by listening to and engaging with as many relevant interlocutors as possible and, furthermore, that it must make deliberate efforts to document and consider the views and statements of all its interlocutors before formulating any conclusions.

2. Independence

16. The Panel agreed to safeguard the independence of its work against any efforts to undermine its impartiality and any attempts to create a perception of bias. The Panel further agreed on the importance of ensuring confidentiality in its work while, at the same time, observing the principles of transparency and accountability. The Panel agreed to comply with requests for anonymity by its interlocutors during the information-gathering process. At the same time, the Panel endeavoured to verify the credibility of the source and the validity of the information provided.

C. Working arrangements

17. The steps taken by the Panel in carrying out its tasks consisted of the following:

- Reviewing existing documents, reports, news articles and literature as possible lead-generating material for further inquiry and research
- Conducting field research and inquiries, including interviews

- Meeting officials of the Government of the Sudan and other Member States, national and international non-governmental organizations, substantive units of the peacekeeping missions in the region and civil society, community leaders, alleged victims and eyewitnesses of violations of resolutions 1556 (2004) and 1591 (2005), members of rebel movements and other stakeholders relevant to the Panel's mandate
- Visiting relevant countries to gather information and evidence
- Collating and verifying the information gathered
- Providing the right of reply to interlocutors
- To the greatest extent possible, reaching decisions by consensus; otherwise by majority opinion

D. Evidentiary standards

18. The Panel agreed that the evaluation of sources and source material, and the analysis of information and evidence must attain the highest possible standards of accuracy, bearing in mind that the Panel is of an independent, expert and non-judicial character with no subpoena powers.

IV. Operating environment

A. Government of the Sudan

19. The Panel was in constant contact with the Government of the Sudan, which maintained its coordination mechanism headed by the Panel's Government focal point in Khartoum. The Panel met on a regular basis with the office of the focal point to clarify issues and seek information, among other requests. Most requested meetings were facilitated by that office. The Panel notes that the Government of the Sudan provided it with written replies to a list of questions presented under the right of reply. Among the several reports given to the Panel in writing were a report on the kidnapping of four South African nationals in Nyala, Southern Darfur, in April 2010 and a general report on the situation in Darfur by the National Intelligence and Security Service (NISS).

20. However, at the time of writing of the present report, the Panel was still awaiting certain information requested from the Government. That information was requested under the right of reply methodology adopted by the Panel. Information was awaited from, among other Government ministries and non-governmental entities, the Ministry of the Interior (Police); the Ministry of Justice; NISS; the Advisory Council on Human Rights; the Civil Aviation Authority; and Air West Cargo. Furthermore, information provided by the Sudanese Armed Forces (SAF) sometimes failed to address the technical nature of the questions raised by the Panel.

21. Additionally, the Panel was informed that it was no longer allowed to meet with SAF commanders in the field and that all issues and clarifications were to be sought from SAF headquarters in Khartoum. The reason given was that SAF in Khartoum was the only entity with strategic information on the situation in Darfur. Moreover, during the Panel's first visit to Khartoum, the Panel was informed by its

Government focal point that it needed permission to travel outside Darfur while in the Sudan. The Panel regrettably notes that the Government of the Sudan expressed reservations with regard to the impartiality and independence of members of the Panel, whom it accused of working for foreign intelligence agencies, although it never provided evidence to back up that allegation. Despite assurances of continued support for the Panel's work, the issue was repeatedly raised throughout the duration of the mandate.

B. United Nations Mission in the Sudan, African Union-United Nations Hybrid Operation in Darfur and United Nations Mission in the Central African Republic and Chad

22. The Panel received good support from UNMIS, UNAMID and MINURCAT during its visits to Khartoum, Darfur and Chad respectively. This — when compared to previous years — improved support is largely attributable to the promulgation by the Department of Peacekeeping Operations of the United Nations Secretariat of "Provisional guidelines for peacekeeping missions in support of Security Council panels". The support greatly facilitated the Panel's work.

C. Working constraints

23. During the present mandate, the Panel faced the following working constraints:

1. Accessibility to areas and interlocutors

24. The ability of the Panel to fulfil its mandate as stipulated in resolution 1591 (2005), as read with the other relevant resolutions concerning Darfur, requires the Panel to have unhindered travel and movement to all locations of interest. It is further required to interact with various stakeholders. The areas of interest are, among other sites, those of alleged bombings and of reported rebel or tribal fighting. Stakeholders include Government officials and members of rebel groups as well as alleged victims of human rights abuses. The Panel's ability in this regard was, however, severely constrained by the restrictive environment in which it operated and which entailed a lack of access to key areas and interlocutors in Darfur.

25. Restrictions faced by the Panel in its movements and interactions with stakeholders were due to security concerns of UNAMID and/or the Government of the Sudan, logistical and operational constraints, as well as instructions by the Government that the Panel was to address its questions to its focal points in the relevant ministries in Khartoum. An invitation to the Panel to visit Jebel Marra by the commanders of the Sudan Liberation Army/Abdul Wahid faction (SLA/AW) in March 2010 was accepted, but the mission could not be conducted because of UNAMID security concerns. Furthermore, an invitation by the Government of the Sudan to visit Jebel Moon and Kulbus was not taken up because of logistical problems and difficulties in receiving UNAMID clearance to use SAF facilities for the trip. Visits to those locations would have greatly helped the Panel to look into issues such as the alleged taxation of the local population by some rebel groups, bombings and tribal clashes.

26. During this mandate, the Panel was unable to access many of the areas outside the three main cities of Darfur. On one occasion in Zalingei, Western Darfur, two Panel members were ordered to immediately leave the locality by the local deputy head of NISS, with the threat that failure to do so would result in their arrest. The reason given by the official was that he had not been instructed by his superiors in El Geneina to allow the Panel's visit and that he disapproved of the Panel's presence because he perceived the Panel to be investigating the Government of the Sudan. The Panel notes in this context that the Panel's Government focal point later expressed his regret about the incident.

2. Justice and Equality Movement refusal to meet the Panel

27. During this mandate, the Panel was denied access to areas under the control of the Justice and Equality Movement (JEM) in Darfur. In March 2010, the Panel met with JEM representatives in Doha. At that meeting, JEM informed the Panel that it had decided not to engage with the Panel. JEM stated that it was misrepresented in the final report of the Panel under the previous mandate (S/2009/562). The refusal of JEM to meet and grant access to areas under its control hindered the work of the Panel in areas of interest. Nevertheless, the Panel notes the receipt of a written answer from JEM in August 2010 to questions sent to it by the Panel.

3. Visa issues

28. As in the past, the Panel repeatedly requested multiple-entry visas for the duration of its mandate. The issuance of such visas would have saved considerable time spent waiting for the issuance of one-month single-entry visas, which the Panel members received in Addis Ababa every time their visas expired. The Panel notes in this context that the standing order of the Government of the Sudan for the issuance of single-entry visas to the Panel in Addis Ababa did not work at times because officials would nevertheless request new authorization from Khartoum for every application that was submitted. The eventual arrangement was that the Panel received single-entry visas, valid for one month, and a subsequent extension for another month while in Khartoum. This arrangement meant that the Panel did not need to leave the Sudan once a month, but nevertheless it implied the continuous need to request a visa.

V. Background

A. Introduction

29. The security situation in Darfur remains precarious. Early in 2010 there was a great sense of optimism that the armed conflict between the Government of the Sudan and armed rebel groups might soon end, with potentially significant peace dividends for civilians in Darfur. Chad and the Sudan normalized their relations, opened their joint border to facilitate cross-border trade and agreed to prevent the use of their territories as a base for rebel groups hostile to their respective Governments. JEM was reported in this context to have been asked to leave and consequently to have left eastern Chad and, with the agreement of the Government of the Sudan, to have taken up positions in Wadi Hawwar, Northern Darfur. JEM, however, denies having had military forces in Chad and, therefore, having left Chad

to cross into Darfur. Irrespective of this, in February 2010 the Government of the Sudan was reported to have moved the Chadian armed opposition groups away from the border and their base in El Geneina in Western Darfur to the area of Mellit in Northern Darfur. At the time of writing of the present report, the Government of the Sudan was reported to have started repatriating some members of Chadian armed oppositions groups from Northern Darfur to Chad.

30. Fighting took place between the forces of the Government of the Sudan and SLA/AW as well as among different factions within SLA/AW in Jebel Marra, resulting in the death, injury and displacement of civilians. Nonetheless, progress towards peace and security in Darfur seemed a realistic possibility with the signing of a framework agreement for establishing a ceasefire and the negotiations for a peace agreement between the Government and JEM in Doha in February 2010. Other Darfurian rebel groups joined the negotiations in Doha and many of them came together to form the Liberation and Justice Movement (LJM). Despite the insistence of JEM that other groups could only join the negotiations under its leadership and its threats to otherwise withdraw from the peace process, the Government of the Sudan and LJM signed a similar framework agreement the following month. In addition, the Government of the Sudan and LJM signed a ceasefire implementation protocol. In April 2010, the Government of the Sudan conducted general elections, which promised to further promote stability.

31. Progress in Doha towards peace agreements could, however, only partially be sustained. The Government of the Sudan and JEM clashed in Darfur amid mutual allegations of the violation of commitments and JEM withdrew from Doha. Heavy bombardment by the Government of JEM positions in Jebel Moon, where JEM had taken up position in the meantime, took place in April and early May 2010. After eventually withdrawing from Jebel Moon in mid-May, JEM has since moved through various parts of Darfur and Kordofan and sporadically clashed with Government forces in various locations. One such clash in May 2010 involved a JEM attack on a fuel convoy protected by Government forces that resulted in the deaths of at least 15 members of the forces, as well as the hijacking of several trucks carrying fuel and other supplies. The clashes between Government forces and rebel groups reportedly caused more than 400 deaths, mainly of combatants, in May 2010 alone.[1]

32. At the time of writing of the present report, JEM has not rejoined the Doha talks and SLA/AW continues to remain outside the process. In contrast, negotiations between the Government of the Sudan and LJM were consolidated by the renewal of the ceasefire implementation protocol in June. Despite allegations of armed confrontation in Darfur between Government forces and LJM members since the ceasefire protocol participants in the Doha talks continue to envisage a final peace settlement. Another process is under way between the Government of the Sudan and two splinter factions of rebel groups through direct talks in Western Darfur.

33. The signing of peace agreements and respect of their provisions by the various belligerents will have evident benefits for the civilian population in Darfur. Bombardments and fighting in Jebel Moon and Jebel Marra since early 2010 have reportedly claimed the lives or caused the displacement of civilians. The clashes

[1] Report of the Secretary-General on the African Union-United Nations Hybrid Operation in Darfur (S/2010/382), para. 22.

also restricted the movement of UNAMID, United Nations agencies and international non-governmental organizations, particularly in the above-mentioned areas and, therefore, the provision of humanitarian aid and other services. In addition, both the Government of the Sudan and rebel groups have denied these actors access to various areas under their control in Darfur, thereby further limiting the humanitarian community's ability to provide assistance and services. Peace agreements should help reverse this situation to at least some extent.

B. Other insecurity factors

34. Notwithstanding the above, the security situation in Darfur is significantly more complex than clashes between Government forces and rebel groups only. Inter-tribal fighting in Western and Southern Darfur in the period from March to June 2010 reportedly claimed the lives of over 600 people and displaced several thousand households from the affected areas.[2] The reasons underlying this fighting include competition for fertile land and grazing grounds, conflicts between livestock herders and farming communities, and retaliatory attacks for previous disputes between and/or killings of members of different tribes and clans. The Nouiba and Misseriya, who regularly clashed in the first half of 2010, signed a peace agreement in Western Darfur in June, but clashes between other tribes and clans in Southern Darfur have continued to occur since June.

35. In addition, attacks on peacekeepers continue and they and humanitarian aid workers are increasingly the targets of kidnapping and carjacking. Armed gangs attacked UNAMID peacekeepers on at least 10 separate occasions between January and July 2010, killing 5 and injuring 19 others. Seven international staff of UNAMID and international non-governmental organizations were kidnapped in three separate incidents during the same period; six of them were released after a total of 50 days in captivity and one was released after 105 days in captivity. Also, criminals and armed gangs hijacked more than 20 vehicles of UNAMID, other United Nations agencies and international non-governmental organizations between January and July 2010.[3] These incidents further restrict the movement of peacekeepers and aid workers and, therefore, their ability to conduct their work.

36. At least two factors contribute to this insecurity caused by non-belligerents. First, small arms such as assault rifles have been proliferating widely among the population in Darfur since at least the beginning of the armed conflict. They include arms that belligerents reportedly distributed to allied communities and tribes. In addition, the present report demonstrates that ammunition for these arms continues to flow into Darfur. The presence of these arms and the availability of the relevant ammunition facilitate armed banditry and crime. They also increase the lethality of such acts, as well as of fighting in the context of inter-tribal rivalries. Of particular note in this context are reports of the use of heavy machine guns mounted on the back of four-wheeled drive vehicles. Vehicle-mounted heavy machine guns were previously typically associated only with rebel groups and Government of the Sudan forces in Darfur.

[2] Source of information: UNAMID.

[3] The data in this paragraph and its sources are presented in detail later in the present report (see paras. 121-126).

37. Second, there exists an increasingly diffuse set of actors in Darfur who contribute to insecurity. Attacks, kidnappings and carjacking incidents are often attributed to unidentified gunmen. There are indications, however, that these acts are committed not only by criminals without a background in the Darfur conflict but also by members of tribes previously associated with the Government of the Sudan, as well as by members of former rebel groups. There are further indications that the latter actors include both those who have and those who have not been integrated into Government forces in recent years. There are related suggestions that the Government may have limited control even over actors who were previously associated with it in the Darfur conflict, as well as over individuals who were nominally integrated into Government forces in Darfur.

38. In addition, civilians in Darfur continue to experience insecurity owing to violations of international humanitarian law and human rights committed against them by various actors. As demonstrated in the present report, the perpetrators often appear to enjoy impunity for their actions, including in cases in which they are perceived by victims and eyewitnesses to be uniformed personnel of the Government of the Sudan. In turn, this undermines the trust of Darfurians in the declared intentions of the Government to ensure the rule of law in Darfur and, in relation to perpetrators perceived to be under its control, to hold to account anyone committing the above-mentioned violations. In other words, the impunity with which perpetrators are perceived to commit violations of international humanitarian law and human rights in Darfur limits the support of displaced persons, especially, for the conduct of peace processes between belligerents.

39. It must also be noted again that the Government of the Sudan continues to impose severe restrictions on the activities of UNAMID, other United Nations agencies, and international non-governmental organizations for reasons other than security concerns. For example, the Government expelled, among others, the Office of the United Nations High Commissioner for Refugees (UNHCR) heads of office in El Geneina and Zalingei in August 2010, because, according to some reports, they were working to raise awareness about sexual and gender-based violence in Western Darfur. Moreover, Government officials in some parts of Darfur insist on the prerogative of authorizing any mission by UNAMID, United Nations agencies and international non-governmental organizations, including missions to areas under full Government control. Permission to undertake some missions is denied when authorization is requested. The impact of such restrictions and expulsions in terms of the loss of assistance and services offered to the civilian population in Darfur is obvious.

VI. The arms embargo

A. Overview

40. By its resolutions 1556 (2004) and 1591 (2005), the Security Council imposed a ban on the supply of arms and related materiel of all types to the three states of Darfur. Specifically, the arms embargo pertains to non-governmental entities and individuals, including the Janjaweed, to the Government of the Sudan and to any other belligerents. Certain exceptions apply, including the following: (a) assistance and supplies provided in support of the implementation of the 2005 Comprehensive

Peace Agreement between the Sudan People's Liberation Movement/Army (SPLM/A) and the Government of the Sudan; (b) movements of military equipment and supplies by the Government of the Sudan upon request and receipt of prior approval by the Committee; and (c) supplies and related technical training and assistance to monitoring, verification or peace support operations that are operating with the consent of the relevant parties. Furthermore, in resolution 1556 (2004), the Council demanded that the Government of the Sudan fulfil its commitment to disarm the Janjaweed militias.

41. The Panel researched various cases involving military materiel held or used by belligerents in Darfur. The Panel documented 15 of these cases owing to the presence of materiel of particular interest. Two of them pertain to materiel held by rebel groups, that is, a Sudan Liberation Army (SLA) faction in Northern Darfur and a former JEM faction in Western Darfur. Two other cases relate to ammunition the Panel documented at sites of clashes between that SLA faction and Central Reserve Police (CRP) in Northern Darfur in November 2009 and March 2010. Three cases involve military materiel which the Government of the Sudan presented to the Panel as having been recovered from the Kalma camp for internally displaced persons in Southern Darfur and from JEM during clashes in various locations in Darfur. Another three cases relate to ammunition that UNAMID recovered from sites of attacks on its peacekeepers and, in one further case, from the site of a shooting within the Kalma camp. Four cases, excluding the two in which ammunition was recovered from sites of clashes between an SLA faction and CRP, relate to ammunition attributed to use or ownership by Government forces in Darfur. A description of each of the 15 cases is presented in table 1 below.

B. Determination of use of ammunition by the Government of the Sudan

42. The Government of the Sudan did not inform the Panel about the specific materiel used by its forces in Darfur. Nevertheless, the Panel gained insight into at least small arms ammunition that is used by Government forces in Darfur on the basis of the following cases. First, the Panel documented ammunition allegedly used by CRP at the sites of two clashes with a rebel group in Northern Darfur. The Panel presented a CRP commander in Northern Darfur with photos of the ammunition attributed to CRP by the rebel group. The commander pointed to several of the photos and confirmed that CRP was using ammunition "with the types of markings" shown in the pictures. The Panel was thus able to exclude some ammunition documented at those sites from being used by CRP while confirming that other ammunition could, indeed, be attributed to use by CRP in Northern Darfur.

43. Second, the Panel documented small arms ammunition that CRP fired in warning shots when a UNAMID convoy passed its position after sunset without prior notification in Northern Darfur in April 2010. When the Panel subsequently visited the location, it was informed by the local CRP commander that the village where the incident had occurred had been attacked by rebels in the past. The shots were fired because he and his men had been unaware that the cars approaching in the dark belonged to a UNAMID convoy. The commander then showed the Panel the exact location from which his men had fired the shots, at which the Panel documented several spent ammunition cartridges. When presented with those cartridges, the commander confirmed they had been fired by his men in the incident.

44. Third, on one occasion, the Panel's main Government focal point exceptionally authorized a meeting with a local SAF commander in Northern Darfur. The meeting took place in July 2010 outside a military compound on a site under constant SAF surveillance. During this meeting, the Panel observed spent cartridges on the ground and inquired about their presence. The commander informed the Panel that the cartridges had been used by his soldiers in a recent test-firing of their weapons. As was done in the case described in the preceding paragraph, the Panel confirmed with the commander that the ammunition had not been acquired through recovery from rebels or criminals. The Panel can confirm in these cases, therefore, that the ammunition in question was used by CRP and SAF respectively and was issued to them, through their chains of command, from Khartoum.

45. In addition, the Panel was presented with spent small arms ammunition that inhabitants of the Kalma camp for internally displaced persons allege was used by Government forces in the armed confrontation between Kalma residents and Government forces in August 2008. Furthermore, the Panel observed what appeared to be an ambushed and burnt-out transport truck belonging to SAF next to a road in Southern Darfur in May 2010. The truck was surrounded by materiel that included small arms cartridges, rockets and unexploded mortar bombs. The Panel was unable to confirm with the Government of the Sudan whether the materiel documented in these two cases belonged to its forces in Darfur. The Panel notes, however, that some of the types of ammunition recorded in these cases were also documented in other cases involving ammunition attributed to Government forces in Darfur.

C. Documented arms and ammunition

46. The Panel recorded arms in the hands of two rebel groups as well as among materiel presented to the Panel by the Government of the Sudan as having been recovered from JEM and the Kalma camp for internally displaced persons. In total, the Panel documented 33 arms. They included assault rifles; general purpose, heavy and anti-aircraft machine guns; recoilless guns and mortars; portable launchers for anti-tank and anti-personnel grenades and rockets; and a surface-to-air missile launcher. Some of this materiel did not bear any visible markings or was not marked in a way that allowed for the identification of its date of production. Where visible, markings often indicated a production date in the 1970s. One notable exception in this context was an assault rifle of, as confirmed with the Government of Israel, Israeli origin with markings indicating its production in the early 2000s. An overview of the different types of arms and the cases in which the arms were recorded is presented in table 2 below.

47. In relation to ammunition, the Panel documented relevant materiel in all of the investigated cases. The materiel included mortar bombs as well as anti-personnel grenades and anti-tank rocket-propelled grenades. The markings on the ammunition for light weapons did not, in most cases, allow for reliable identification of the possible States of origin and years of production. In contrast, cartridges of ammunition for assault rifles and machine guns, which the Panel recorded in nearly all cases, predominantly bore manufacturers' marks and identification of their year of production. Overall, the Panel visually inspected several hundred such cartridges during its mandate.

1. Post-embargo-produced small arms ammunition

48. The Panel concentrated on small arms ammunition bearing markings that suggest that it was produced after 2005, because such ammunition was unquestionably transferred to Darfur, where there is no ammunition production facility, after the imposition of the arms embargo. Indeed, post-embargo-produced small arms ammunition was present in most cases documented by the Panel. Moreover, such post-embargo-produced small arms ammunition constituted the vast majority of small arms ammunition documented by the Panel as being present in Darfur. The Panel disaggregated this ammunition into 18 different samples, with each sample defined by its calibre, manufacturer's mark and marks identifying its year of production. The markings on these 18 samples, as well as photographs thereof, are presented in table 3 and box 1 below.

49. Twelve of these samples bear markings consistent with markings applied by manufacturers in the People's Republic of China. The Panel confirmed this in written correspondence with the Government of China. At the same time, the Government of China pointed out that non-Chinese manufacturers may also apply markings such as those documented by the Panel and that the photographic evidence provided by the Panel did not allow for confirmation as to whether the ammunition was, in fact, produced in China. The Panel recorded individual examples of these 12 samples, which also represented the vast majority in quantitative terms of recorded ammunition in most of the cases investigated.

50. The Panel believes that four of the remaining six samples were produced in the Sudanese ammunition production facilities near Khartoum, but it did not receive a conclusive response from the Government of the Sudan in that regard, despite repeated requests. The Panel recorded relevant samples, in small quantities, at sites of shootings that involved non-governmental actors and Government forces in Darfur.

51. The two final samples, both of which are attributed to use by rebel groups, bear markings that suggest the ammunition to be of Israeli origin. One of the two samples, documented in the possession of a former JEM faction, was contained in a metal container holding 1,000 cartridges in their original packing. In written correspondence with the Government of Israel, the Panel confirmed the consistency of the markings of this sample with markings applied to ammunition produced in Israel.

2. Overview of documented arms and ammunition

52. A list of the cases investigated, as well as of the location and dates at which the materiel was used, recovered by belligerents or documented by the Panel is presented in table 1. In table 1 also, the arms and/or ammunition samples recorded in each of those cases are identified through the provision of the reference numbers of the relevant materiel in tables 2 and 3. That is, table 1 includes one column for arms recorded in each case and one column for ammunition recorded in each case. Those columns contain the reference numbers by which the relevant materiel can be identified in tables 2 and 3. The types and generic models of arms are listed in table 2. In addition, table 2 contains a column which provides the reference number(s) to the case(s), listed in table 1, in which the arms were recorded. In table 3, the post-embargo-produced small arms ammunition samples recorded are identified by calibre, manufacturer's (company) mark, year of production and

presumed country of origin. Again, a column is provided that allows the individual case(s) in which the samples were recorded to be identified. Photographic evidence of the "headstamps" of the samples, that is, the markings at the base of the cartridge cases, is provided in box 1.

Table 1
Case description and documented materiel

Case number	*Date of event*[a]	*Case description*	*Arms sample number (see table 2)*	*Ammunition sample number*[b] *(see table 3)*
1	Aug. 2008	Ammunition allegedly used by the Government of the Sudan in shooting at the Kalma camp for internally displaced persons, Southern Darfur	—	3, 5, 14, 16
2	Aug. 2008	Arms and ammunition allegedly recovered by the Government of the Sudan from the Kalma camp for internally displaced persons, Southern Darfur	3, 4, 7, 9, 12, 14, 15	—
3	March 2009	Ammunition used in an attack on UNAMID peacekeepers near El Geneina, Western Darfur	—	16
4	Nov. 2009	Ammunition allegedly used by an SLA faction and CRP in an armed clash, Northern Darfur	—	1, 2
5	Jan. 2010	Ammunition allegedly used in shooting within the Kalma camp for internally displaced persons, Southern Darfur	—	9, 10, 11, 13, 16
6	Feb. 2010	Ammunition used in an attack on UNAMID peacekeepers near Nyala, Southern Darfur	—	13
7	March 2010	Ammunition allegedly used by CRP in a clash with an SLA faction, Northern Darfur	—	1, 2, 3, 5, 8, 12, 13, 15
8	March 2010[a]	Arms and ammunition held by an SLA faction, Northern Darfur	1, 2, 6, 7	4, 5, 8, 12, 15
9	April 2010	Ammunition used by CRP in warning shots against UNAMID convoy, Northern Darfur	—	11, 14
10	May 2010[a]	Ammunition at the site of a burnt-out truck presumably belonging to SAF, Southern Darfur	—	2, 10
11	June 2010	Ammunition used in an attack on UNAMID peacekeepers near Nertiti, Western Darfur	—	12, 14
12	July 2010[a]	Ammunition used by SAF in test-firing weapons, Northern Darfur	—	6
13	July 2010[a]	Arms and ammunition allegedly recovered by the Government of the Sudan from JEM, Northern Darfur	10, 18	—
14	July 2010[a]	Arms and ammunition held by a former JEM faction, Western Darfur	6, 7, 11, 13, 16, 17, 18, 19	5, 7, 8, 15, 18
15	Aug. 2010[a]	Arms and ammunition allegedly recovered by the Government of the Sudan from JEM, Western Darfur	5, 8	17

Notes:
[a] Date of inspection by the Panel as opposed to the date on which the materiel was used or recovered by belligerents.
[b] The samples listed pertain only to small arms ammunition of post-embargo production (5.56 mm, 7.62 mm and 12.7 mm calibre). See also table 3 below.

Table 2
Documented arms and case reference

Sample number	*Type*	*Model (generic pattern)*	*Quantity*	*Case reference*
1	Assault rifle	Type 56	1	8
2		Type 56-1	1	8
3		AKM	1	2
4		G3	1	2
5		GALIL	1	15
6	Automatic rifle	FN FAL	2	8, 14
7	General-purpose machine gun	PK	3	8, 2, 14
8		FN MAG	3	15
9	Heavy machine gun	W-85	1	2
10	Anti-aircraft gun	KPV, double-barrelled	1	13
11		Type 58, double-barrelled	1	14
12	Recoilless gun mortars	SPG-9	1	2
13		B-10	1	14
14		Unidentified (82 mm calibre)	1	2
15	Portable anti-tank and anti-personnel grenade/rocket launchers	RPG-7	1	2
16		M72	8	14
17		M79	2	14
18		Unidentified (40 mm calibre)	2	13, 14
19	Surface-to-air missile launcher	SAM-7	1	14

Table 3
Post-embargo small arms ammunition samples and case reference

Sample number	*Calibre*	*Company mark*	*Year of production*	*Presumed country of origin*[b]	*Case reference*
1[a]	12.7 mm	11	2007	China	4, 7
2[a]		41	2007	China	4, 7, 10
3[a]		41	2006	China	1, 7
4	7.62x54 mm	2	2008	Sudan	8
5[a]		71	2006	China	1, 7, 8, 14
6		945	2009	China	12
7[a]		945	2007	China	14
8		945	2006	China	7, 8, 14
9	7.62x51 mm	2	2006	Sudan	5
10	7.62x39 mm	2	2008	Sudan	5, 10
11		2	2007	Sudan	5, 9
12		61	2007	China	7, 8, 11

Sample number	*Calibre*	*Company mark*	*Year of production*	*Presumed country of origin*[b]	*Case reference*
13		71	2008	China	5, 6, 7
14		311	2006	China	1, 9, 11
15		811	2007	China	7, 8, 14
16		811	2006	China	1, 3, 5
17	5.56 mm	IMI	2007	Israel	15
18		IMI	2006	Israel	14

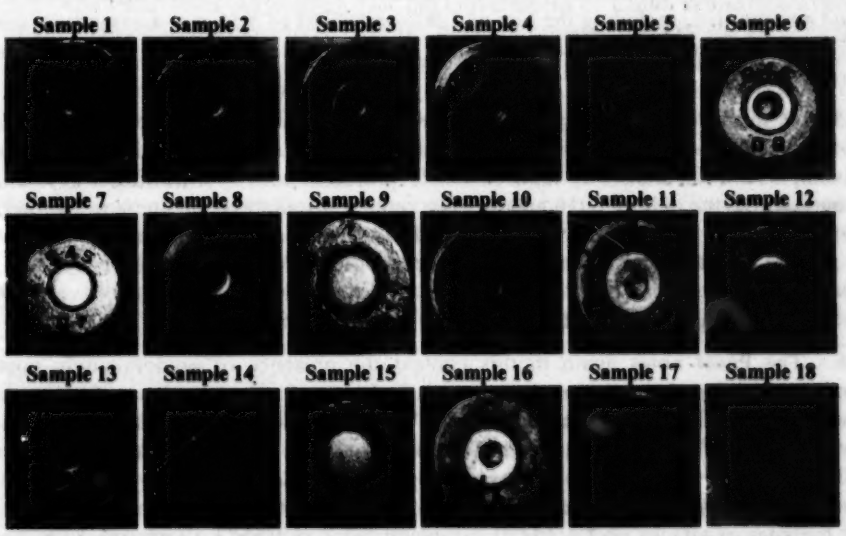
Notes:

[a] Also recorded in the hands of belligerents in Darfur by the Panel in previous mandates.

[b] The Panel's presumption as to origin is based on the consistency of the company markings with company markings internationally known to be applied by manufacturers in the States referred to. The Panel is not, however, provided with the means for metallurgical and chemical analysis of samples or with other resources required for establishing the consistency of the composition of the ammunition with that of the relevant ammunition produced by manufacturers in the States in question.

Box 1

Post-embargo small arms ammunition samples recorded in Darfur



D. Violations of the arms embargo

53. The Panel finds that the arms embargo on belligerents in Darfur has no discernable impact on those actors. Although JEM denies having done so, JEM is reported by various sources to have entered Darfur from eastern Chad early in 2010 in the framework of the normalization of relations between Chad and the Sudan, and

the commitment by Chad not to harbour Darfurian rebels in its territory. Specifically, JEM is reported to have crossed into Darfur with arms and ammunition. This would constitute a violation of the arms embargo in the view of the Panel. Of particular note in this context are the assault rifle of Israeli origin that the Government of the Sudan presented to the Panel as having been recovered from JEM and the box of ammunition of presumed Israeli origin that the Panel documented in the hands of a former JEM faction. The rifle and ammunition are both of 5.56 mm calibre and are not known to be in use by Government forces in Darfur or elsewhere in the Sudan. The Panel can exclude the possibility, therefore, that JEM or the former JEM faction acquired the materiel through an attack on Government forces. Rather, the materiel presents a clear indication that JEM trafficked it into Darfur from abroad. The Panel notes in this context that JEM denies ever having acquired military materiel from outside Darfur.

54. Moreover, the Government of Israel informed the Panel in written correspondence that a rifle of the type and model and with the serial number documented by the Panel as well as ammunition with the relevant markings were exported to the Ministry of National Defence of Chad for the armed forces of Chad in December 2007. The Panel addressed a letter to the Government of Chad to acquire further information regarding the materiel but did not receive a response prior to the writing of the present report. However, the presumed diversion of the materiel within Chad would correspond to allegations made by members of the former JEM faction, who informed the Panel that JEM had provided them with arms and ammunition, including the box of 1,000 cartridges of 5.56 mm ammunition, that JEM had acquired in Chad and had then trafficked into Darfur in violation of the arms embargo.

55. JEM and other rebel groups also procure arms and ammunition from within Darfur through attacks on Government of the Sudan forces and installations. Examples are the attacks by JEM on a CRP-protected convoy travelling to Nyala in Southern Darfur in May 2010 and on Government installations in Kuma in Northern Darfur in July 2010. Likewise, an SLA faction attacked a CRP convoy carrying logistical supplies and money for the remuneration of CRP personnel in Northern Darfur in November 2009. Rebels claim to have recovered Government vehicles, arms and/or ammunition in these and other attacks reported by them.

56. The Panel notes again in this context the presence of predominately post-embargo-produced small arms ammunition in Darfur. Production dates of 2008 and even 2009 indicate the continued influx of recently produced ammunition. The proliferation of such ammunition in Darfur is also indicated by its use in attacks on UNAMID peacekeepers by unidentified gunmen. Indeed, foreign post-embargo-produced ammunition was recovered from the positions of the attackers at all three of the sites of attacks on UNAMID personnel listed in table 1 above, including the attack in which three Rwandan UNAMID peacekeepers were killed near Nertiti in Western Darfur in June 2010. The Panel confirmed with UNAMID that none of the post-embargo-produced ammunition samples that it documented in the three states of Darfur were reported as lost by or stolen from UNAMID peacekeepers. The Panel concludes, therefore, that the post-embargo-produced ammunition recorded in Darfur entered Darfur by means other than supplies to UNAMID peacekeepers, which are exempted under resolution 1556 (2004).

57. The Panel also remarks that transfers of military materiel by the Chadian armed forces to its personnel stationed in Darfur in the framework of the Joint Border Force further increase the amount of arms and ammunition in Darfur that may eventually be used in the context of armed clashes in Darfur.

1. Presumed origin of foreign, post-embargo-produced ammunition

58. As indicated, the majority of small arms ammunition cartridges which the Panel encountered in Darfur have markings consistent with those applied by Chinese manufacturers. The Panel cannot exclude the possibility that manufacturers outside China apply the same markings and, consequently, that the ammunition in question was produced in a State or States other than China. The Panel endeavoured to establish if China had exported any ammunition consistent with the samples to the Government of the Sudan and/or States neighbouring Darfur since 2005. In response to its letters, the Panel learned that the Government of China exported ammunition with markings documented by the Panel to the Government of the Sudan and several other States in the subregion in recent years. The Government of China further informed the Panel that the exports to the Government of the Sudan had been conditional on end-user certificates in which the Government of the Sudan explicitly committed itself not to transfer the materiel to Darfur or any third party. The Panel was also informed that China has in place a strict system of monitoring the authenticity of end-user and end-use certificates.

59. The Panel does not suggest that the Government of China authorized exports of ammunition to the Government of the Sudan or other actors who the Government of China knew would then retransfer the materiel to Darfur in violation of the arms embargo. The Panel does not suggest, therefore, that China authorized the export of ammunition in violation of its international obligation to prevent the sale or supply of military equipment to any of the belligerents operating in the three states of Darfur. The Panel also acknowledges that there are multiple pathways along which foreign, post-embargo-produced ammunition may have entered Darfur, including, for example, leakage from Government stockpiles and subsequent trafficking from neighbouring States to Darfur. The Panel notes in this regard that the Government of China, in its responses, did not provide the requested details concerning which of the relevant ammunition samples was exported to which specific State(s). This would have greatly assisted the Panel in excluding possible pathways and States as potential points of leakage of the ammunition.

60. The Panel also questions the reliability of end-user certificates and assurances in which the Government of the Sudan commits itself not to transfer military materiel imported from abroad to Darfur. The Panel welcomes the information received from the Government of China that it is investigating the reports of military materiel of possibly Chinese origin in the hands of Government of the Sudan forces in Darfur. The Panel understands, however, that the Government of China does not verify respect of end-user undertakings other than by relying on statements by the Government of the Sudan, which strongly rejects any notion of non-compliance with its international obligations. The Panel considers this reliance on Government of the Sudan statements as problematic in the light of past and present findings suggesting violations of end-user undertakings by the Government of the Sudan.

2. Government of the Sudan

61. In a written response to several of its questions, SAF informed the Panel that, in relation to the disarmament of non-governmental entities, an operation to disarm tribes and rebel movements, agreed upon in the framework of the 2006 Darfur Peace Agreement between the Government and several Darfur rebel groups, was ongoing. Members of the rebel groups are said to have been integrated into the armed forces and other Government entities. A parallel process is said to have been implemented to disarm individuals not affiliated to organized groups. The Government of the Sudan further explained that the disarmament of the Janjaweed was no longer relevant because, following the Darfur Peace Agreement, they were also integrated into Government forces.

62. In relation to troop transfers, SAF reaffirmed that at present there are three infantry regiments, deployed at 80 per cent, in Darfur. The regiments include battalions repatriated from Southern Sudan following the 2005 Comprehensive Peace Agreement. SAF and the Government of the Sudan also reaffirmed their view that this repatriation of soldiers, together with their equipment, would be in line with the implementation of the Comprehensive Peace Agreement and did not constitute a violation of the arms embargo under resolution 1591 (2005). Moreover, the Panel was informed that these regiments would not require military equipment in addition to what the repatriated battalions had brought with them and what was already present in Government stockpiles in Darfur prior to 2005.

63. Specifically, SAF stated that it had not transferred any additional ammunition to its forces since the imposition of the arms embargo and that it had one of the most modern supply systems in the world. SAF categorically rejected, therefore, any suggestion that it might be violating international obligations under resolution 1591 (2005) and/or transferring foreign-produced materiel to Darfur in violation of end-user undertakings. Concerning the presence of post-embargo produced ammunition in Darfur, SAF explained that such materiel must have been trafficked into Darfur by rebel movements either from neighbouring countries or following the materiel's capture in attacks on SAF camps outside Darfur or on police forces that used the same weapons and ammunition as SAF.

64. In an additional communication, the Government of the Sudan stated that the Republic of the Sudan, a sovereign State, as reaffirmed in the preambular part of resolution 1591 (2005), had the right and duty to ensure stability and security in Darfur and protect civilians and infrastructure against attacks by rebels and outlaws. In this context, the Government of the Sudan highlighted its view that the arms embargo would apply to its forces in Darfur only in relation to supplies of military materiel, other than that brought into Darfur by repatriated forces, to SAF forces that engaged in armed clashes with rebel groups. The Government of the Sudan further affirmed that, in its view, the supply of arms and ammunition to Government forces other than SAF, such as CRP and the national police, would not be covered by the arms embargo.

65. The Government of the Sudan confirmed to the Panel in this context that 12,000 armed police personnel had been deployed to Darfur in recent years to provide for internal security. It also specified that CRP was classified as a police force with the mandate to shoot only in cases of self-defence or when required to protect civilians against rebel attacks. Furthermore, SAF affirmed that two transfers of armed personnel from Khartoum to Darfur which the Panel witnessed in April

2010 were not a violation of resolution 1591 (2005). Lastly, SAF informed the Panel that its armed forces would engage only in defensive operations against rebel movements in Darfur.

3. Observations of the Panel on the arguments of the Government of the Sudan

66. The Panel considers several of the arguments provided by the Government of the Sudan and SAF concerning their respect of international obligations to be problematic. The stated repatriation of SAF troops, together with arms and ammunition, from Southern Sudan to Darfur since 2005, as well as of members of former rebel movements who were integrated into SAF following the 2006 Darfur Peace Agreement implies an increase of military equipment in the hands of the Government forces in Darfur. The transfers imply, therefore, an increase in the military capacity of the Government forces in Darfur. If, as claimed by the Government of the Sudan, such transfers were not covered by the requirement to obtain prior authorization from the Committee, there would be a clear weakness in the formulation of resolution 1591 (2005). This is because it would imply that the Government of the Sudan may continue to increase its military capacity in Darfur without prior authorization as long as it can link such transfers to the 2005 Comprehensive Peace Agreement and the 2006 Darfur Peace Agreement.

67. Furthermore, the Panel considers the transfer of armed police personnel to Darfur, without prior authorization by the Committee in relation to the transferred arms and ammunition, to be a violation of resolution 1591 (2005). The Panel notes that the resolution does not mention the exceptions that are claimed by the Government of the Sudan to exist in relation to the supply of police forces, including CRP. The Panel also notes that the materiel held by the national police, who are equipped with assault rifles, and CRP, which is equipped with assault rifles and 12.5 mm heavy machine guns, may be captured by rebel groups and, therewith, can become part of the materiel used in armed conflict in Darfur.

68. Moreover, the Panel reports that, contrary to Government claims that SAF and CRP engage in defensive operations only, the Panel received credible information indicating that the two actors have also attacked rebel positions in Darfur since early 2010 and, therefore, do not act exclusively in self-defence or to protect civilians. The involvement of CRP in one such case, which the Government neither confirmed nor denied when asked about it by the Panel, is particularly noteworthy. This is because it illustrates that the CRP cannot be simply excluded from actors considered as a belligerent group in Darfur on the grounds that it is a police force mandated to shoot only in the defence of civilians or in self-defence.

69. In addition, the Panel is unable to reconcile the SAF statement that it has not transferred ammunition to its forces in Darfur with the presence of ammunition cartridges clearly marked as having been produced in 2009 on a site under constant military supervision in Northern Darfur (sample 6 in table 3 and Box 1 above). The Panel emphasizes again that the local SAF commander present at that site explicitly confirmed that the cartridges in question had been used by his men in test-firing their weapons. The commander further affirmed that the ammunition had not been recovered from rebels or criminals. The Panel reiterates, therefore, its conclusion that the ammunition was issued to SAF in Darfur through the SAF chain of command and was supplied through Khartoum.

70. The Panel highlights that the presence of this ammunition and its use by SAF represents not only a violation of the arms embargo but also, given the markings indicating its production abroad, a violation of the end-user undertaking by the Government of the Sudan to the presumed State of origin of the ammunition not to transfer such materiel into Darfur. The Panel recalls that the Government of the Sudan has never requested, and consequently never received, prior authorization from the Committee for transfers of arms or ammunition to Government forces in Darfur, whether they be SAF, national police or CRP.

71. The Panel further points to the cases in which it confirmed with local CRP commanders that foreign, post-embargo-produced ammunition was held and used by CRP personnel in at least Northern Darfur. As in the case referred to above, the Panel confirmed with the commanders that the relevant ammunition had not been recovered from rebel groups or criminals. The Panel again concludes, therefore, that the Government of the Sudan transferred post-embargo-produced ammunition into Darfur without having received prior authorization from the Committee and in violation of its end-user undertakings.

E. Customs and border control

1. Overview

72. The porous nature of the border between the Sudan and Chad has always meant that there is uninhibited cross-border movement of people and goods. This was the case even when the border was said to have been closed officially. No monitoring mechanism was in place. In the reporting period, this border has been reopened and free trade between the two countries has been restored. The Mellit customs station, which is not on the border but responsible for monitoring cross-border trade between Northern Darfur and Chad, and which was closed in the early days of the Darfur conflict, has now re-opened. However, customs border points are non-existent except in For Baranga and Um Dukhun, Western Darfur, both of which border points are staffed by fewer than 20 customs officers, and in El Geneina, Western Darfur.

73. In the framework of the normalization of relations between Chad and the Sudan early in 2010, the Governments of both States deployed troops as agreed on in the Joint Border Monitoring Force Agreement. This bilateral agreement, entered into in January 2010, requires that there be a deployment of up to 1,500 soldiers from each of the two countries at the border. The Joint Border Force has a one-year mandate with the possibility of extension. The leadership of the Force is established on a six-month rotation basis. From February 2010 the head of the Force was from SAF, and on 15 August 2010 the leadership of the Force was taken over by the Chadian armed forces.

74. In July 2010, the Panel met with the Joint Border Force leadership at its then headquarters in El Geneina. At that meeting, the Panel was informed that the Force was fully deployed and supplied with equipment by the two countries. The Force is further supported by two helicopters, one from each of the two countries. The Panel was informed that that the Joint Border Force acted as a deterrent to armed bandits along the border and that the Force had engaged in shootings with bandits. The Panel was also informed of achievements of the Force, including the recovery of vehicles stolen in the Sudan that were being transported into Chad and improvement

in the confidence of the local population because of the perceived security benefits that the Force offers.

75. The Panel notes that the reported improvement along the border between Chad and the Sudan is not mirrored along the border between the Libyan Arab Jamahiriya and the Sudan. Indeed, in June 2010, the Government of the Sudan announced the closure of its border with the Libyan Arab Jamahiriya, citing security reasons and reported cross-border activities by rebel groups. The closure of that border may not necessarily have an impact on the cross-border movement of goods, including any possible arms and ammunition, and people owing to the porous nature of the border.

2. Observations of the Panel on the Joint Border Force

76. The Panel notes that personnel of the Chadian armed forces have been stationed with their arms and ammunition in Darfur in the framework of the Joint Border Force since February 2010. This transfer of military material from Chad into Darfur was confirmed to the Panel in the aforementioned meeting with the Joint Border Force. The Committee regards the Joint Border Force as a peace support operation. The transfer of military equipment by the Government of Chad to its forces in Darfur may thus be considered as exempt from the arms embargo. Chadian and Sudanese commanders present at the meeting with the Panel also stated that their mission was not to engage with rebel movements.

77. Nevertheless, the Panel notes that such transfers by the Chadian army, previously linked to the belligerent groups associated with the Darfur conflict, further increase the amount of arms and ammunition in Darfur. This material may eventually be used in the context of armed clashes should the Joint Border Force, contrary to its mission, engage with rebels and/or should materiel be lost or stolen from the Joint Border Force by non-governmental actors in Darfur.

VII. Aviation assets and offensive military overflights

A. Overview

78. During its current mandate, the Panel continued its monitoring of aviation assets in Darfur. From February to July 2010, the Panel assessed the number and types of military aviation assets of the Government of the Sudan in Darfur and also observed the transfer of armed Government forces into the region by commercial aircraft. The Panel observed a higher number of military aircraft in Darfur than was recorded during previous mandates, as well as a new type of military aircraft not previously documented. The Panel also considered the maintenance of Darfur-based military aviation assets outside Darfur, as well as their maintenance with spare parts procured from outside the Sudan.

B. Rotation of troops

79. On 19 April 2010, at 8 a.m., the Panel observed an IL-76 aircraft with the registration ST-EWX departing from Khartoum airport. The same aircraft was seen by the Panel in El Fasher on the same day at 9.30 a.m. delivering approximately 200 Government soldiers. On 25 April 2010, the same aircraft was again observed carrying a similar number of armed Government soldiers from Khartoum to

El Fasher airport. This aircraft, mentioned in previous Panel reports for similar activities, belongs to the air freight company Air West Cargo, which, the Panel learned, undertook the transfers on behalf of the Government of the Sudan. The Government of the Sudan claims that these flights were transporting former rebels who, following the 2006 Darfur Peace Agreement, had undergone national training outside Darfur for insertion into SAF in Darfur.

80. The Panel considers the increase of armed SAF forces in Darfur without the prior authorization of the Committee to be a violation by the Government of the Sudan of its obligations under resolution 1591 (2005). As pointed out, the Government of the Sudan claims that, in the specific case referred to above, it merely retransferred troops previously stationed in Darfur back to Darfur. The Panel notes, however, that resolution 1591 (2005) does not mention such retransfers as being excluded from its scope. The Panel further notes that Air West Cargo, the director of which did not respond to a request by the Panel for a meeting, is undertaking potentially embargo-violating activities on behalf of the Government of the Sudan.

ST-EWX disembarking troops in El Fasher airport, 19 April 2010.

C. Government of the Sudan aviation assets in Darfur

1. Sukhoi-25 jets

81. During its current mandate, the Panel observed eight Sukhoi-25 fighter jets parked at El Fasher and Nyala airports and, thus, a higher number of fighter jets than reported in the Panel's final report under its previous mandate (S/2009/562). Research by the Panel, subsequently confirmed by the Government of Belarus, indicates that the Government of the Sudan had acquired 15 such jets from Belarus since 2008 (12 SU-25 aircraft and 3 SU-25UB aircraft). The jets were delivered under a letter of guarantee by the Government of the Sudan that they would not be used in violation of resolution 1591 (2005).

82. The Sukhoi-25 fighter jets observed by the Panel in Darfur carry the following tail numbers: 201, 203, 206, 207, 209, 210, 211 and 212. The Panel received

confirmation from the Government of the Sudan that all eight aircraft are operational. The Government of the Sudan purports that, in conformity with its rights as a sovereign State, such aircraft are deployed based upon security needs, expected threats and to ensure a strategic military balance with neighbouring countries, effectively claiming an exception to its obligation to seek prior approval from the Committee before such deployment.

83. The Panel did not receive information from the Government of the Sudan as to whether any of the eight Sukhoi-25 jets documented in Darfur were part of the deliveries received from Belarus since 2008. The Panel notes, however, that it would consider the deployment to Darfur by the Government of the Sudan of the jets delivered by Belarus since 2008 without prior authorization from the Committee to be a violation of resolution 1591 (2005), which does not mention the exemption that the Government claims exists, as well as, by implication, a violation of the end-user undertaking given to the Government of Belarus.

Sudanese Armed Forces Sukhoi-25 overflying the Ed Daein UNAMID team site, 15 June 2010.

2. New type of fighter jet

84. The Panel received verified reports from several sources of at least the temporary presence of a MIG-29 aircraft in Darfur. That is to say, a MIG-29 aircraft was sighted at El Fasher airport and in flight over Darfur during the current mandate. The Government of the Sudan informed the Panel that MIG-29s conduct border surveillance flights in Darfur and do not engage in armed clashes with rebel groups. The Government of the Sudan therefore does not consider the presence of MIG-29s in Darfur to be a violation of its obligations. The Panel notes that this is yet another exception claimed by the Government in relation to its obligation to request prior authorization for transfers of military equipment to Darfur that is not set out in resolution 1591 (2005).

3. Type Mi-24 and type Mi-17 helicopters

85. In response to requests by the Panel during the current as well as previous mandates, the Russian Federation confirmed the sale of type Mi-24 and type Mi-17 military helicopters to the Government of the Sudan in 2005, 2006 and 2009. The latter procured 12 Mi-24s in 2005 and 32 in 2009. As for the Mi-17s, the Government of the Sudan acquired four in 2006 and an additional four in 2009. The Russian Federation also informed the Panel that those helicopters were provided on the basis of an end-user undertaking by the Government of the Sudan that they would not be used in Darfur.

86. From February to July 2010, the Panel observed 15 type Mi-24 helicopters in Darfur, three more helicopters than reported during the previous mandate. The Mi-24 helicopters, with tail numbers 925, 926, 928, 929, 933, 937, 938, 939, 941, 942, 943, 945, 946, 947 and 948, were observed by the Panel in El Fasher, Nyala and El Geneina.

87. During its current mandate, the Panel also observed in Fasher a military type Mi-17 helicopter with the tail number 537 on 11 February 2010 and another Mi-17, with the tail number 534, on 18 June 2010. The Government of the Sudan informed the Panel that it did not consider those aircraft subject to resolution 1591 (2005) because they were deployed for surveillance purposes only and were not used in armed clashes.

88. As in relation to the Sukhoi-25 jets delivered from Belarus, the Panel did not receive information from the Government of the Sudan as to whether any of the Mi-24 and Mi-17 helicopters seen in Darfur formed part of the deliveries by the Russian Federation since 2005. For the same reasons as noted above, the Panel would consider the deployment of any of those helicopters in Darfur by the Government of the Sudan without prior authorization to be a violation of its obligations as well as of end-user undertakings provided to the Government of the Russian Federation.

D. Maintenance of Darfur-based aviation assets

89. The arms embargo under resolutions 1556 (2004) and 1591 (2005) extends to arms and related materiel of all types, including spare parts, as well as assistance related to the maintenance or use of military equipment. SAF informed the Panel that some of the maintenance of Darfur-based military aviation assets is undertaken outside Darfur and that required spare parts are procured from outside the Sudan. SAF stated that the scheduled maintenance of military helicopters after 300 hours and 600 hours of flight time was done in the field and overhauls after 1,200 hours of flight time were done in Khartoum. Additionally, SAF stated that spare parts were obtained from the country of origin of the aircraft that was undergoing maintenance. The Panel received confirmation from the Russian Federation that spare parts for aviation assets exported by it to the Ministry of Defence of the Government of the Sudan were provided on the basis of an end-user undertaking by the latter that the parts would not be used in aviation assets used in Darfur. Furthermore, the Panel notes that the Government of the Sudan confirmed to the Panel that it does not consider the supply of fuel to Government forces on the ground and the air force in Darfur to be covered by the arms embargo.

90. The Panel views the maintenance of Darfur-based military aviation assets with spare parts procured from outside the Sudan as well as the supply of fuel to Government military ground and air forces in Darfur, without the prior consent of the Committee, as a violation by the Government of the Sudan of its international obligations under the relevant Security Council resolutions and of end-user undertakings given by the Government of Sudan to the State(s) from which spare parts are procured. As previously, the Government of the Sudan claims that such maintenance and fuel supplies are not covered by the embargo, but the Panel again emphasizes that such an exemption is not mentioned in resolution 1591 (2005).

E. Offensive military overflights and bombardments

91. The Panel received reliable information that the Government of the Sudan conducted offensive military overflights in Darfur late in 2009 and in the first half of 2010. They included aerial bombardments by Antonov aircraft and aerial attacks by Mi-24 attack helicopters as well as low-altitude surveillance and training flights in the immediate vicinity of population centres. The Panel also notes in this context that it observed the open storage of barrel bombs next to the El Fasher airport tarmac and the loading of some of the bombs into an Antonov plane on two occasions during its mandate.

92. The Panel repeatedly observed SAF helicopters taking off from El Geneina airport in April 2010. The helicopters were loaded with bombs and reports indicate that the helicopters were launching attacks on Jebel Moon and Jebel Om, where JEM was alleged to have taken position at the time. Information received by the Panel suggests that there were civilian casualties in the context of those bombings. The Government of the Sudan confirmed to the Panel that bombings took place in Darfur, but rejected allegations of civilian casualties as propaganda by rebel groups and their supporters in Darfur.

93. In relation to intimidating overflights, the Panel confirmed aerial demonstrations conducted by two Government Sukhoi 25-fighter jets very close to the tops of tents at the UNAMID team site in Ed Daein on 13 June 2010 at about 1.30 p.m. The exercise took about 30 minutes. A similar exercise was conducted on 15 June 2010 in the same place and at about the same time. The sound and close proximity of the jets evoked fear among staff and soldiers present at the team site on both occasions. The Government of the Sudan informed the Panel that the said fighter jets were conducting training exercises and that a landing strip 500 metres from the team site required that the Government aircraft fly over the site at low altitudes on their approach to the runway.

94. The Panel further notes reports of very low-altitude flights by military aircraft in other parts of Darfur, including in the immediate vicinities of camps for internally displaced persons. The Panel considers such low-altitude overflights to be intimidating and, therefore, offensive and in violation of resolution 1591 (2005), in accordance with which SAF is to refrain from offensive military overflights.

Two SAF Sukhoi-25 fighter jets overflying the Ed Daein UNAMID team site, 15 June 2010.

VIII. Acting as a source of information on individuals who commit violations of international humanitarian or human rights law or other atrocities

A. Overview

95. Resolution 1591 (2005) mandates the Panel to provide information on individuals who commit violations of international humanitarian or human rights law or other atrocities. In the present report, the Panel focuses on cases it considers to constitute the most serious such violations.

96. In the area of international humanitarian law, the Panel has focused on the following:

- Attacks against civilians
- Failure to protect civilians
- Attacks against peacekeepers and humanitarian aid workers
- Recruitment of child soldiers

97. In the area of human rights law, the Panel has prioritized the monitoring of the following rights:

- The right to life
- The right not to be subjected to arbitrary arrest and detention
- The right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment
- The right to freedom of expression
- The right to freedom of political affiliation
- The right to an effective remedy for serious violations of human rights

B. Violations of international humanitarian law

1. International humanitarian law framework

98. In order to assess whether the facts established by the Panel constitute violations of international humanitarian law, it is first necessary to establish the type and nature of the conflict in Darfur and to identify the applicable rules, provisions and norms of international humanitarian law.

99. It has been established that, since rebels exercise de facto control over some territories in Darfur, the conflict does not merely amount to a situation of internal disturbance and tension, riots or isolated and sporadic acts of violence. Rather, the requirements are met for the Darfur conflict to be considered a non-international armed conflict under common article 3 of the Geneva Conventions of 12 August 1949, namely, (i) the existence of organized armed groups fighting against the central authorities, (ii) control by rebels over part of the territory and (iii) protracted

fighting. The conflict in Darfur, then, is considered for the purposes of international humanitarian law to be a non-international armed conflict.[4]

100. The fundamental principles underlying international humanitarian law are the principles of humanity, distinction, proportionality, military imperative and adequate precaution. The Sudan is a signatory to the four Geneva Conventions of 1949, but not to the Additional Protocols of 1977 thereto. All parties to the conflict in Darfur are bound by the provisions of the Geneva Conventions that regulate the means and methods of warfare in situations of non-international armed conflict, specifically article 3 common to the four Geneva Conventions. All parties to the conflict are also bound by other treaties, such as the Convention on the Rights of the Child, and by customary international law.

2. Attacks against civilians

(a) Aerial bombardments

101. The Government of the Sudan is the only belligerent in the Darfur conflict that possesses military aviation assets. As previously indicated in the present report, the Panel confirmed with the Government that these assets were used in various aerial bombardments in Darfur during the Panel's mandate. While not limited to the following, bombings were reported especially in the areas of Jebel Marra and Jebel Moon in January and February 2010 and in the area of Jebel Moon again in April and May 2010. The Government of the Sudan informed the Panel that any such bombings targeted rebel positions and their movements in Darfur and that both areas were, at the relevant times, strongholds of SLA/AW and JEM respectively.

102. The Panel notes that the Government of the Sudan is obliged under international humanitarian law not to attack civilians and to observe the principles of military imperative and distinction between military targets and civilian installations. In this context, the Panel points to credible and eyewitness accounts it received that bombings carried out by SAF in Darfur took place near water points and/or populated villages in at least five instances. These reports relate to bombings in two clashes with an SLA faction in Northern Darfur in November 2009 and March 2010, allegedly resulting in two civilian deaths and the killing of dozens of livestock near water points, and with JEM in Western Darfur in April 2010 and twice in Northern Darfur in May 2010, allegedly resulting in 11 civilian deaths and the injury of 30 civilians near villages and nearby water points.

103. The Panel requested specific information from the Government of the Sudan on three of those incidents, including the one that is said to have occurred in Northern Darfur in March 2010, in relation to which the Panel verified the existence of what appeared to be craters still containing shrapnel, two of which were within 30 metres of the water point of a village. At the time of writing of the present report, the Government of the Sudan has not responded to the questions raised by the Panel. The questions included queries as to whether the Government of the Sudan had carried out investigations into the allegations, whether civilians allegedly affected by the bombings or, as relevant, their relatives, were compensated and whether the Government of the Sudan has in place internal standard operating procedures and

[4] See report of the International Commission of Inquiry on Darfur to the Secretary-General of the United Nations, pursuant to Security Council resolution 1654 (2004) of 18 December 2004.

mechanisms to prevent civilian casualties or the killing of livestock during bombings.

104. In all the cases of violations of international humanitarian law investigated by the Panel during the current mandate, or followed up from the previous mandate, where the lives and livelihoods of civilians were adversely affected by bombardments, the Panel is unaware of any incident where the Government of the Sudan investigated a possible violation or compensated the victims.

(b) Armed clashes

105. Throughout the current mandate, clashes between the Government of the Sudan and the various rebel factions, intra- and inter-factional clashes, and inter-tribal clashes reportedly resulted in the destruction of civilian lives and livelihoods, with a toll of over one thousand dead and thousands displaced.

106. Culminating in a military build-up around the areas of Jebel Moon and Jebel Marra, SAF attacked positions of JEM and SLA/AW, respectively. Following the SAF attacks the two rebel groups eventually evacuated their strongholds in the two areas.

107. In order for the Panel to establish that violations of international humanitarian law had occurred, including attacks against civilians and failure to observe the principles of military imperative and distinction between military targets and civilian installations, the Panel members required access to affected areas, belligerents and eyewitnesses, as well as the affected population. As explained above, the Government of the Sudan and JEM denied the Panel access to most of the affected areas. The Jebel Marra area also remained inaccessible to the Panel, despite an invitation by SLA/AW.

108. Questions posed by the Panel to the Government of the Sudan concerning the above-mentioned cases and several other reported bombings had not been answered as of the date of writing of the present report. Therefore, the Panel relied in its assessment on information gathered during its limited field missions and interactions with interlocutors on the ground, including eyewitness accounts provided by internally displaced persons who had fled several of the areas where bombings were reported. Dozens of civilians were reportedly killed, hundreds injured and thousands displaced. This suggests that civilian areas have been affected by the bombardments by SAF throughout Darfur and by the clashes between SAF and SLA/AW in Jebel Marra, and between SAF and JEM in Jebel Moon.

3. Failure to protect civilians

109. The above-mentioned international humanitarian legal framework provides for the protection of civilians in armed conflict. In addition, national authorities, according to the Guiding Principles on Internal Displacement, have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons, who are entitled to enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country.[5]

110. During the course of the current mandate, the Panel received several reports of cases involving acts of intimidation and harassment, as well as physical attacks

[5] E/CN.4/1998/Add.2, principles 1 and 3.

targeting the lives and property of internally displaced persons. The following is a case study of an attack against internally displaced persons.

(a) Attack by members of the Arab tribe of Ta'alba on camps for internally displaced persons at Kass, Southern Darfur

111. The Panel received information regarding an attack on 9 February 2010 carried out by members of an Arab tribe against camps for internally displaced persons in the area of Kass, 87 km north-west of Nyala, Southern Darfur. The Panel carried out two field missions to Kass, where it interacted with eyewitnesses, community leaders of the internally displaced, the Commissioner of the Kass locality, the local police commander, and UNAMID police and military personnel.

112. According to information gathered by the Panel, the incident was triggered on 8 February 2010 when a CRP soldier from the Arab Tha'alba tribe was found dead, his rifle missing, in the proximity of the predominantly Fur El Batary camp for internally displaced persons at Kass. The chief Omda (community leader) of the Tha'alba, Omda Mansour Ishaac Tuwir, contacted the chief Omda of El Batary camp, demanding *diya* (blood money) and the missing rifle. The latter replied that his community was not responsible, as the soldier could have been killed somewhere else before his body was dragged to El Batary camp. Based on that position, the leader of El Batary camp informed the Tha'alba chief that his community neither had the rifle nor intended to pay the requested *diya*.

113. On 9 February, unsatisfied with the response of the internally displaced, the chief Omda of the Tha'alba tribe led several hundred armed men from his tribe, some of them wearing green camouflage uniforms, to Kass, on which they converged in vehicles and on horseback and on camels, armed with rifles and sticks. Reportedly present among the onlookers were the Acting Wali of Southern Darfur, the Commissioner of Kass and members of both the Government of the Sudan police and CRP.

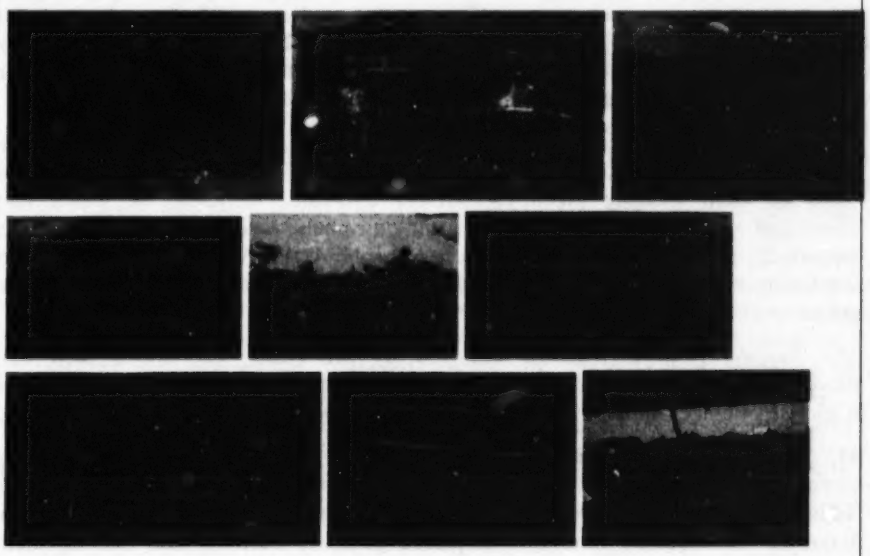
114. According to information received by the Panel, the armed men then proceeded to attack several of the camps for internally displaced persons in Kass, namely El Batary, Gabat, El Thanawya Banat, El Mawashi and Yahia Hajar camps.

115. Armed men entered El Batary, El Thanawya Banat and Yahiya Hajar camps. According to international interlocutors, who were present during the attack on the Yahia Hajar camp, at around 12 noon on 9 February armed men entered the Yahia Hajar camp, attacking internally displaced persons, shooting and beating them, burning their shelters and looting their property, and burning down several shops at the local market. Members of CRP were seen in the vicinity of the camp during the attack, but they did not appear to be intervening in order to protect the internally displaced persons. According to eyewitness accounts, CRP was in the camp during the attack searching for the dead soldier's missing rifle. As a result of the attack, three male internally displaced persons, two Fur and one Zaghawa, were killed and over one hundred others injured. In addition, the attackers are also reported to have carried out acts of gender-based violence: seven internally displaced women are reported to have been assaulted and raped. The internally displaced persons interviewed, including members of the families of two of the victims, informed the Panel that they had not received any compensation.

(b) Allegations of sexual and gender-based violence against internally displaced women during the attacks

116. The Panel interviewed dozens of internally displaced women in Kass, all of whom stated that they had been physically or sexually assaulted by the armed Arab men. Three women from El Batary camp told the Panel that they had been raped by Arab men during the attack on 9 February. One of them informed the Panel that armed men had entered her shelter on that day looking for weapons and money, before one of them beat her on her face and back and then raped her. Another woman told the Panel that 10 armed men dressed in a mix of civilian and green camouflage clothes had entered her shelter and demanded money and asked about weapons, before three of them started beating her and taking turns in raping her. A third woman said that an armed man had entered her shelter demanding weapons, before he raped her.

Box 2
Photographs taken on 9 February 2010 at Kass camps for internally displaced persons



(c) Reply by the Government of the Sudan

117. The Panel met with the Government of the Sudan police commander in Kass, who confirmed that the incidents had taken place. According to him, the local police force in Kass was unable to prevent the attack, because it lacked the capacity to deter the armed forces of the Arab militia of the Tha'alba tribe, who had 10 times the capacity of the police force in both numbers and arms. The police commander informed the Panel that such attacks could only be prevented with the assistance of SAF, which operated only upon orders from the central Government. He also complained that local committees set up to arbitrate local disputes weakened the role of the police as part of the administration of justice system, as settlements of

such disputes were often based on compensation in the form of money, allowing perpetrators to get away with impunity.

118. According to the Nyala prosecutor, the case is still under investigation and his office is seeking the arrest of a number of individuals believed to have organized the attack. However, he informed the Panel that those individuals lived in areas on the outskirts of Kass that were impossible for the Government police to access.

119. In response to the Panel's inquiry, the Government of the Sudan focal point responded in writing, confirming the incident.[6] According to that response, the police and CRP forces ejected the attackers, who numbered about 600 individuals. In the response, the focal point also stated that the state Government had paid compensation to the family of the dead soldier and also to the families of the dead internally displaced persons, although there was no reference to how the internally displaced persons were killed or whether an investigation into the killing had been launched.

(d) Findings and observations

120. The attacks were carried out against civilian inhabitants of Kass camps for internally displaced persons in the presence of local authorities, who were either unable or unwilling to prevent them. The Panel notes that:

- CRP forces are said to have entered the camps during the attacks searching for the dead soldier's missing rifle
- Acts of sexual and gender-based violence were reportedly perpetrated during these retaliatory attacks
- Mechanisms for the protection of civilians failed in this case owing to the fact that the armed militias were much stronger than the police and owing to the lack of political will to solve the problem
- Failure in the administration of justice and the lack of effective remedy for the victims of the attack allow for the possibility of recurrence of such attacks.

4. Attacks against peacekeepers and humanitarian aid workers

(a) Attacks against peacekeepers

121. During the period covered by the current mandate, deliberate attacks against UNAMID and humanitarian aid workers increased. There were 22 attacks against UNAMID alone in the three states of Darfur between March 2009 and July 2010 (see table 4). In most of these cases, the attackers were recorded as being unidentified gunmen. Fourteen peacekeepers were killed in the incidents and 32 others were injured.

[6] Response by the Government of the Sudan, "Special report on the attack on El Batary camp for internally displaced persons" (one page), 30 May 2010.

Table 4
Attacks on UNAMID peacekeepers, March 2009-July 2010

Incident number	*Date*	*Location*	*State*	*Victims killed*	*Victims injured*
1	9 March 2009	El Geneina	Western Darfur	—	4
2	18 March 2009	Nyala	Southern Darfur	1	—
3	10 May 2009	Nyala	Southern Darfur	1	—
4	6 Aug. 2009	Aljeel	Northern Darfur	—	—
5	10 Aug. 2009	Ed Daein	Southern Darfur	1	—
6	10 Aug. 2009	Mournei	Western Darfur	—	—
7	29 Aug. 2009	Kabkabiya	Northern Darfur	—	1
8	28 Sept. 2009	El Geneina	Western Darfur	1	2
9	12 Oct. 2009	Kutum	Northern Darfur	—	1
10	17 Oct. 2009	Zalingei	Western Darfur	—	3
11	4 Dec. 2009	Saraf Umra	Northern Darfur	3	2
12	6 Dec. 2009	Shangil Tobayi	Northern Darfur	2	—
13	10 Jan. 2010	Shawa airstrip	Western Darfur	—	—
14	16 Feb. 2010	Nyala	Southern Darfur	—	7
15	7 May 2010	Ed el Fursan	Southern Darfur	2	3
16	22 May 2010	El Geneina	Western Darfur	—	—
17	3 June 2010	El Geneina	Western Darfur	—	—
18	20 June 2010	El Geneina	Western Darfur	—	—
19	21 June 2010	Nertiti	Western Darfur	3	1
20	15 July 2010	Kulbus	Western Darfur	—	—
21	29 July 2010	Habillah	Western Darfur	—	7
22	30 July 2010	El Fasher	Northern Darfur	—	1

122. The following are three illustrative summaries of cases investigated by the Panel.[7]

Case study 1: Incident No. 14

123. On Tuesday, 16 February 2010, an armed UNAMID police convoy returning to Nyala from a confidence-building patrol to El Sherif camp for internally displaced persons was ambushed by a group of about seven unidentified gunmen. The convoy consisted of five UNAMID 4x4 vehicles carrying 11 civilian police observers and seven armed police officers for protection. The attack took place near Sakali, 2 km from the camp and 17 km south of Nyala, at around 2.20 p.m. The attackers concentrated their small arms fire on the armed police officers and wounded seven of them. Three of the wounded officers were left in serious condition and one was left in critical condition. The attackers captured two vehicles, as well as mobile phones and cash carried by the peacekeepers.

[7] Source of information: UNAMID.

Case study 2: Incident No. 15

124. On Friday, 7 May 2010, a UNAMID convoy returning to Nyala from a patrol to Tullus was ambushed by a group of about 20 unidentified gunmen. The assailants opened fire without warning and shot indiscriminately at the peacekeepers from both sides of the road near Katayla village, south of Ed el Fursan, Southern Darfur, when the convoy passed at about 11.30 a.m. The convoy consisted of an armoured personnel carrier and two soft-skinned vehicles carrying 20 Egyptian peacekeepers. The peacekeepers returned fire and the attackers fled. Two peacekeepers died in the attack and three others were seriously injured. One UNAMID vehicle was damaged. The assailants fled without capturing any equipment belonging to UNAMID.

Case study 3: Incident No. 19

125. On Monday, 21 June 2010, UNAMID peacekeepers from Rwanda providing security to civilian engineers undertaking construction work at a UNAMID team site near Nertiti, Western Darfur, were attacked by more than 20 assailants wearing camouflage battle uniforms on board what eyewitnesses described as land cruisers painted in the colours of Government of the Sudan military vehicles. The attack took place at about 11.30 a.m. The ensuing gunfight between the peacekeepers and their assailants lasted for almost an hour. Three peacekeepers lost their lives in the attack and a fourth peacekeeper was seriously injured. The assailants, three of whom were killed in the attack, captured a UNAMID vehicle and eventually fled the scene.

(b) Attacks against humanitarian aid workers

126. The Panel received reports of dozens of cases involving acts of banditry by armed men allegedly associated with armed rebel groups and pro-Government militia, including harassment and beating of national staff of non-governmental organizations and keeping them in temporary detention. Bandits have also carried out theft and armed robbery against staff of humanitarian non-governmental organizations. Table 5 shows only some of the cases involving kidnapping and carjacking related to international humanitarian aid workers in the period from January 2009 to June 2010.

Table 5
Some of the attacks on international humanitarian aid workers during the period January 2009-June 2010

Date of attack	*Place of attack*	*State in Darfur*	*International non-governmental organizations*	*Attack*
30/01/09	Zalingei	Western Darfur	Mercy Corps	Carjacking and robbery
02/02/09	Kubum	Southern Darfur	CARE	Carjacking
04/02/09	Ed Daein	Southern Darfur	Solidarités international	Carjacking and robbery
04/02/09	Nertiti	Western Darfur	Médicins Sans Frontières — France	Carjacking

Date of attack	*Place of attack*	*State in Darfur*	*International non-governmental organizations*	*Attack*
05/02/09	Zalengei	Western Darfur	International Medical Corps	Carjacking
16/02/09	El Geneina	Western Darfur	Agency for Technical Cooperation and Development	Carjacking and robbery
16/02/09	Zalingei	Western Darfur	International Rescue Committee	Carjacking and robbery
24/02/09	El Geneina	Western Darfur	Triangle Génération Humanitaire	Carjacking and robbery
26/02/09	El Geneina	Western Darfur	International Committee of the Red Cross	Carjacking
07/03/09	Nyala	Southern Darfur	Humedia	Carjacking
11/03/09	Saraf Omra	Northern Darfur	Médicins Sans Frontières — France	Kidnapping
14/03/09	Zalingei	Western Darfur	International Committee of the Red Cross	Carjacking and robbery
24/03/09	El Geneina	Western Darfur	Mediar	Carjacking and robbery
04/04/09	Ed el Fursan	Southern Darfur	Aide Médicale International	Kidnapping
06/04/09	El Fasher	Northern Darfur	African Humanitarian Action	Carjacking
09/04/09	Mukjar	Western Darfur	Triangle Génération Humanitaire	Carjacking
19/04/09	Nyala	Southern Darfur	Samaritan's Purse	Carjacking
23/04/09	Nyala	Southern Darfur	World Vision	Carjacking
24/04/09	Nyala	Southern Darfur	Aide Médicale International	Carjacking
05/05/09	El Geneina	Western Darfur	Comité d'Aide Médicale	Carjacking
06/05/09	Rahad el Berdi	Southern Darfur	World Vision	Carjacking and robbery

Date of attack	*Place of attack*	*State in Darfur*	*International non-governmental organizations*	*Attack*
14/05/09	Nyala	Southern Darfur	Samaritan's Purse	Carjacking and robbery
02/06/09	Nyala	Southern Darfur	Child Friendly Community Initiatives	Carjacking
23/06/09	Kabkabiya	Northern Darfur	Médicins Sans Frontières — Belgium	Carjacking
29/06/09	Wadi Salih	Western Darfur	International Medical Corps	Carjacking
02/07/2009	Kutum	Southern Darfur	Goal	Kidnapping
08/07/09	Nyala	Southern Darfur	International Rescue Committee	Carjacking
04/08/09	Nyala	Southern Darfur	Humedia	Carjacking
19/09/09	Zalingei	Western Darfur	Médicins Sans Frontières — Sweden	Carjacking
22/10/09	El Geneina	Western Darfur	International Committee of the Red Cross	Kidnapping
17/11/09	Nyala	Southern Darfur	Humedia	Carjacking
25/11/09	Zalingei	Western Darfur	Danish Refugee Council	Carjacking
20/12/09	El Fasher	Northern Darfur	Save the Children Fund Sweden	Carjacking
25/12/09	Zalingei	Western Darfur	Danish Refugee Council	Carjacking
14/02/10	Garsilla	Western Darfur	International Medical Corps	Carjacking
28/02/10	Malha	Northern Darfur	Cooperazione Internazionale	Carjacking
22/03/10	El Geneina	Western Darfur	Adventist Development and Relief Agency	Carjacking
18/05/10	Abu Ajura	Southern Darfur	Samaritan's Purse	Kidnapping and carjacking
23/06/10	Nyala	Southern Darfur	Technisches Hilfswerk	Kidnapping

(c) International humanitarian law implications of attacks against peacekeepers and humanitarian aid workers

127. Attacks against UNAMID have hindered peacekeeping efforts, including the conduct of patrols and the monitoring of the international humanitarian law and human rights situation in Darfur. Attackers have also targeted humanitarian aid workers, adversely impacting on the ability of the humanitarian community to access affected areas and effectively undermining efforts to adequately assess the needs of and provide relief to civilians affected by the violence. Deliberate attacks on peacekeepers clearly violate the provisions on protection of peacekeepers and humanitarian aid workers of international humanitarian law and the Convention on the Safety of United Nations and Associated Personnel and, therefore, constitute war crimes under international humanitarian law and the Rome Statute of the International Criminal Court.[8]

5. Access to relief

(a) Overview

128. The humanitarian situation deteriorated in several parts of Darfur during the current mandate. The impact on the civilian population of the above-mentioned clashes and attacks has been further exacerbated by disregard on the part of the belligerents of the rights of the civilian population. In addition, restrictions imposed by the belligerents on the movements of peacekeepers and humanitarian aid convoys and harassment of peacekeepers and humanitarian aid workers by the various belligerents have had a negative impact on their ability to carry out their respective monitoring and humanitarian mandates. The access of the civilian population to humanitarian relief in Darfur has also been affected by the attacks on peacekeepers and humanitarian aid workers.

(b) Expulsion of humanitarian aid workers

129. The phenomenon of the expulsion of humanitarian aid workers has had a profoundly negative effect on the access of the Darfurian civilian population to humanitarian relief. The continued threats by the Government of the Sudan to revoke the licence of non-governmental organizations and expel their staff as well as the staff of United Nations agencies have created an atmosphere of fear among the staff of the humanitarian non-governmental organizations and United Nations agencies, and undermined their ability to freely carry out their respective mandates, further limiting the access of the civilian population to humanitarian relief.

130. Moreover, actual expulsions are creating a gap in the provision of services that, at least in relation to sexual and gender-based violence, may not be as easily filled by the Government as it had previously claimed. The threat of expulsion has become a constant reality for humanitarian relief organizations in Darfur. Following the expulsion in March 2009 of 13 international non-governmental organizations from Darfur for allegedly having exceeded their mandate, the Government continued to revoke the licences of humanitarian non-governmental organizations

[8] Rome Statute, article 8 (2) (b) (iii): "Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict."

and expel their international staff. On 21 January 2010, the Government announced that it had revoked the licence of 26 aid groups that, the Government claimed, had not carried out any activities in the Sudan. Thirteen other organizations were given a warning to adjust their status in accordance with the law. On 15 July 2010, the Government of the Sudan expelled from Darfur two staff members of the International Organization for Migration.

131. The threat of expulsion of international non-governmental organizations perceived to be critical of the Government was renewed in a public speech by the President of the Sudan on 8 August 2010. In the speech, the President gave a stern warning to organizations operating in Darfur against becoming involved with the International Criminal Court. He also announced the delegation of authority to governors to expel any foreigner in Darfur perceived to be working against the interests of the Government. On 13 August 2010, five international staff of the Office of the United Nations High Commissioner for Refugees, the Food and Agriculture Organization of the United Nations and the International Committee of the Red Cross were expelled from Western Darfur. The UNHCR staff members, including the acting head of the Darfur operation, were accused of distributing what NISS perceived as "rape detectors" and for allegedly being involved in efforts to bolster the genocide case of the International Criminal Court against the President of the Sudan. It is worth noting that UNHCR is the agency leading the United Nations protection cluster in Darfur.

(c) Access of internally displaced persons to humanitarian relief

132. Access of internally displaced persons to humanitarian relief has always been a concern in Darfur, particularly in the light of the above-mentioned factors. In the context of disagreement among the internally displaced over the approach to the political and peace processes in Darfur, disputes erupted between the supporters and the opponents of the Doha talks. Such clashes erupted in several camps for internally displaced persons in Darfur, including Kalma in Nyala, Southern Darfur, and Hamidiya and Hassahissa in Zalingei, Western Darfur. These clashes have resulted in deaths, injuries and further displacement of internally displaced persons. In addition, the Government of the Sudan imposed further restrictions on the movements of humanitarian relief agencies providing services to the camps, on the pretext that the camps are havens for armed rebel groups.

Case study: unrest and humanitarian crisis in Kalma camp for internally displaced persons, Nyala, Southern Darfur

133. Late in July 2010, violent clashes occurred between armed supporters of different factions among a rebel group in the Kalma camp for internally displaced persons. The clashes occurred in the context of disagreements between internally displaced persons supporting and internally displaced persons opposing the Doha process and allegedly resulted in the killing of 10 and the injuring of 25 internally displaced persons. Further, many internally displaced persons fled Kalma to nearby camps and villages and to Nyala town as a result of the violence. On 24 July, in the aftermath of the initial phase of violence, five individuals suspected of having organized the killing of pro-Doha internally displaced persons sought refuge at the UNAMID Community Policing Centre. A stand-off ensued between the Government of the Sudan and UNAMID over the former's demand that the latter hand over the five individuals.

134. Between 4 and 16 August, Government of the Sudan law enforcement officers established a total blockade of the Kalma camp. The Panel received information that, on 4 August 2010, NISS denied non-governmental organizations, both national and international, and United Nations agencies access to Kalma camp, Kalma village, Bilel camp and Bilel village. Justifying the action of NISS, the Humanitarian Aid Commissioner claimed that, in the aftermath of the violence, the internally displaced persons at Kalma had either returned to their villages or fled to other camps and, thus, there was no reason for the humanitarian community to operate in the camp. Contrary to that claim, confirmed information received by the Panel indicates that about 80,000 civilians still reside inside the camp and in surrounding areas, including Kalma village, Bilel village and Bilel camp. The information also suggests that the blockade has resulted in shortages of food, potable water, medicine, shelter, sanitation and medical services.

135. While the blockade was partially eased on 16 August and some relief agencies were allowed to provide water and medicine, distributions of food and other commodities remained suspended up to the time of writing of the present report. According to interlocutors in the camp, 188 children are being treated for disease and malnutrition. At least 12 children reportedly died during the past month.

6. Recruitment of child soldiers

(a) Recruitment of child soldiers by armed groups and forces in Darfur

136. The Panel continued to receive reports of the recruitment of child soldiers by parties to the conflict in Darfur. Despite efforts on the part of the international community to eliminate the practice and despite the denial by some rebel groups of the recruitment of children and the declaration by others of their commitment to action plans to end this practice, credible information received by the Panel indicates that the practice continues unabated.[9]

137. While the Panel has not been able to verify the information it has received owing to limited access to areas controlled by armed rebel groups, the Government of the Sudan for its part has not been transparent concerning the disarmament of the Janjaweed militias, as demanded by the Security Council in resolution 1556 (2004), and their subsequent reintegration. Therefore, the Panel cannot confirm whether child soldiers formerly serving with those militias may have been integrated into CRP, the Border Guards and the Popular Defence Forces. According to the most recent report of the Secretary-General on children and armed conflict, there were 20 reported incidents of association of children with SAF in Darfur, in 2009, involving 65 children.[10] In the same report, it is noted that children were also observed with SLA/Minni Minawi (SLA/MM), SLA/AW and JEM, during 2009. In addition to the above-mentioned belligerents, annex I to the Secretary-General's report lists under the heading "parties that recruit or use children, kill or maim children and/or commit rape and other forms of sexual violence against children in situations of armed conflict on the agenda of the Security Council, bearing in mind other violations and abuses committed against children", the following rebel movements: JEM/Peace Wing, Movement of Popular Force for Rights and Democracy, SLA/Abu Ghasim, SLA/Free Will and SLA/Unity.

[9] Source of information: interviews with members of rebel groups. See also report of the Secretary-General on children and armed conflict (A/64/742-S/2010/181), para. 61.

[10] Ibid., para. 119.

138. In response to queries by the Panel on the subject, JEM, SLA/AW and SLA/MM all denied recruiting child soldiers. The Panel notes that on 21 July 2010 JEM signed a memorandum of understanding with the United Nations regarding the protection of children in Darfur. Similarly, SLA/Free Will committed itself on 14 June 2010 to an action plan with the United Nations to end the recruitment and use of child soldiers. The Panel has not been able to verify whether those two armed rebel groups have honoured their commitments in the field. Nearly 6,000 child soldiers remain in association with SLA/MM.[11] An action plan signed in 2007 between SLA/MM and UNICEF regarding children associated with the movement was never implemented.

(b) Legal standards

139. While there is no specific mention of child soldiers in the Geneva Conventions of 1949, there are numerous instruments of international humanitarian and human rights law that are designed to protect children from being used as soldiers in armed conflict. See footnote for legal standards concerning children in armed conflict.[12]

C. Violations of human rights

1. International human rights legal framework

140. The Government of the Sudan has ratified, acceded to or signed several international and regional human rights treaties designed to protect the rights of

[11] *Source:* interview with SLA/MM Legal Adviser on 1 September 2010.

[12] Additional Protocol I to the Geneva Conventions (1977), article 77.2 of which provides that "children who have not attained the age of fifteen years do not take a direct part in hostilities"; Additional Protocol II to the Geneva Conventions (1977), article 4.3 (c) of which provides that "children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities"; the Convention on the Rights of the Child, which provides in article 1 that "a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier". Article 38.2 provides that "States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities"; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict which provides, with particular reference to non-State armed groups, that under no circumstances should persons under the age of 18 years be recruited or used in hostilities; International Labour Organization (ILO) Convention on the Worst Forms of Child Labour, which defines the child as any person "under the age of 18" and applies to the "forced or compulsory recruitment of children for use in armed conflict", among other things; the African Charter on the Rights and Welfare of the Child, which establishes the age of 18 as the minimum age for recruitment and participation in any armed force or armed group; the Rome Statute of the International Criminal Court, under which conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflict is considered a war crime; and Security Council resolutions 1882 (2009), 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004) and 1612 (2005).

individuals in the Sudan.[13] The most pertinent human rights treaties in the context of the Darfur conflict are the International Covenant on Civil and Political Rights and, at the regional level, the African Charter on Human and Peoples' Rights. At the domestic level, the Comprehensive Peace Agreement, the National Interim Constitution and the Darfur Peace Agreement all contain provisions guaranteeing the protection of human rights and fundamental freedoms.

2. Violations of the right to life

141. The Panel received several reports of alleged violations of the right to life, involving parties to the conflict (the Government of the Sudan, SLA/AW and JEM). The Panel attempted to approach all three parties with queries regarding their alleged respective responsibilities. The Panel is awaiting responses from the Government on some cases. The response of JEM was not conclusive. The Panel was not able to contact SLA/AW.

(a) Attack against anti-Government protesters in El Fasher, 2 May 2010

142. The Panel investigated an incident involving alleged excessive use of force by law enforcement officers in El Fasher, Northern Darfur. Eight individuals were reportedly killed and 21 injured when the police allegedly opened fire, on 2 May 2010, during a protest in El Fasher over the perceived role of the state Government in a money pyramid scheme. The Panel has requested information from the Government of the Sudan concerning the incident and as to whether the Government of the Sudan has initiated its own investigation. In the process of documenting this case, the Panel interacted with eyewitnesses and relatives of the victims, human rights defenders, Government officials at both national and state levels, and international monitors.

(b) Legal framework

143. The Government of the Sudan is under the obligation to implement the Code of Conduct for Law Enforcement Officials,[14] which establishes an international standard of protection of individual rights guaranteed under international human rights law. Article 2 of the Code obliges law enforcement officials to "respect and protect human dignity and maintain and uphold the human rights of all persons"; article 3 restricts their use of force to "only when strictly necessary and to the extent required for the performance of their duty". The Code also stipulates that no law enforcement official may "inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment" (art. 5).

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[13] The Sudan has acceded to four of the seven major international human rights conventions, namely: the International Covenant on Civil and Political Rights (1986); the International Covenant on Economic, Social and Cultural Rights (1986); the Convention on the Elimination of All Forms of Racial Discrimination (1977); and the Convention on the Rights of the Child, which it has also ratified (1990). It has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1986), but has not ratified it. The Sudan has acceded to the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflicts (2005) and on the sale of children, child prostitution and child pornography (2004).

[14] General Assembly resolution 34/169, annex.

(c) Right of reply accorded to the Government of the Sudan

144. Despite repeated requests, the Panel has yet to receive a response from the Government of the Sudan regarding these allegations of violations of the right to life. According to the Northern Darfur Prosecutor, despite complaints from the families of the victims, his office has decided not to press charges against the police on the grounds that the police fired in the direction of the crowd in self-defence, after having been being shot at from that direction.

3. Violations of the right not to be subjected to arbitrary arrest or detention and the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment

(a) Introduction

145. The Panel received reports of arbitrary arrest and detention as well as of ill-treatment and torture of persons while in the custody of security agents acting on behalf of the Government of the Sudan. The continuing reports of arbitrary arrest and detention of Darfurian community leaders, members of civil society and human rights activists indicate that the practice remains widespread in Darfur. Arbitrary arrest and detention is of particular concern, since it is often a precursor for further human rights violations.

146. Some of the cases documented by the Panel during the current mandate relate to infringements by the Government of these rights in relation to internally displaced persons, community leaders and members of civil society perceived to be supportive of armed rebel groups, or in relation to community leaders who are against efforts to bring internally displaced persons into the Doha peace process. Other cases documented by the Panel involve efforts by the Government to target individuals it suspects of having cooperated with the International Criminal Court.

(b) Overview of allegations

147. The Panel documented a total of 40 cases involving the arbitrary detention of individuals of Darfurian origin. According to most of those interviewed, they were not informed of the charges against them at the time of their arrest or accorded the right to legal counsel. The interviews indicated that some of them were detained by security agents acting on behalf of NISS and some others were detained by members of the SAF Military Intelligence (MI). The Panel also documented cases involving the arbitrary arrest and detention of Dafurians under the State of Emergency Law (1997).

148. Interviews with released individuals indicated that they were detained for periods that ranged from a few days to several months. These individuals also stated that, while in the custody of security agents, they were beaten and tortured by interrogators and jailers for the purposes of extracting a confession or in order to humiliate them.

149. Specific cases documented by the Panel point to violations of human rights by state civilian authorities in Darfur, MI, NISS and SLA/MM. The following are some examples of these violations:

- Twenty leaders of the internally displaced were rearrested by NISS agents in August 2009 under the State of Emergency Law, after being released by the

prosecutor for insufficient evidence. Fourteen of them were released after six months without being charged. The other six have remained in arbitrary detention for over a year.

- Eighteen individuals were arbitrarily detained in November 2009 by MI in the area of Malha following an ambush of a CRP convoy. They were all released by May 2010 without being charged.
- A community leader was detained for three days by NISS in El Serif in April 2010 on the grounds of his political opinions.
- A chief omda from Tawilla camp for internally displaced persons was detained for 18 days by NISS in Tawila in April. He was released without being formally charged.
- Two Darfurian civil society members were detained for six days by NISS in El Fasher in June. They were released without being charged.
- Four Darfurian human rights defenders and political activists were allegedly detained in Khartoum, Omdurman and Nyala in connection with civil activities concerning the recent elections.
- Two Darfurian individuals were detained by NISS in Kabkabiya. They were reportedly transferred to El Fasher and kept in NISS custody. They have not been officially charged.
- A minor from Abou Shouk camp for internally displaced persons, El Fasher, was detained and ill-treated for one day by NISS in April. The minor was released without being charged.
- National staff of the United Nations were arbitrarily arrested, detained and tortured. No official charges were made against them.
- A student was detained for five days by MI in Malha, Northern Darfur, in January 2010. He was allegedly tortured while in custody. The student was released after five days.
- A man was kidnapped and detained by MI in Kabkabiya.
- A 15-year-old boy was detained at the SLA/MM detention facilities at Zamzam from the end of August 2009, in the same cell with adults. The boy was later transferred to the Government of the Sudan juvenile detention facility in El Fasher, before he was released in August 2010, after paying *diya* (blood money).
- An 18-year-old female was detained for five days in the SLA/MM detention facility at Zamzam in February 2010. She was released without being charged.
- A practising lawyer was detained on 20 July 2010 by the Southern Darfur police in Nyala, allegedly for criticizing Government policy while in the Bar Association lounge. He was later released by the prosecutor.
- Six internally displaced persons from the Kalam camp were detained in July 2010 for alleged violence against pro-Doha internally displaced persons. Four of the six detainees allege that they were subjected to torture and/or ill-treatment while in the custody of the Government of the Sudan police.

150. The Panel also received reports concerning the detention and ill-treatment by JEM and other armed rebel groups of civilians perceived as being collaborators with the Government of the Sudan.

Case study: arbitrary arrest of Fur omdas in Abu Shouk and Al Salam camps for internally displaced persons, El Fasher, Northern Darfur

151. One of the cases documented by the Panel involves six leaders of the Fur internally displaced community detained in the NISS facilities at Shalla prison in El Fasher, Northern Darfur, since August 2009. The detainees, including one female, were among 20 individuals initially arrested by the police on 2 August 2009 for allegedly taking part in the killing of a Fur omda and his wife. Two days later, on 4 August, the Prosecutor General of Northern Darfur ordered their release for lack of sufficient evidence. Immediately after their release, they were all rearrested and detained by NISS agents acting upon the orders of the Wali of Northern Darfur, Osman Mohamed Yousef Kibir, who invoked his powers under the State of Emergency Law. Fourteen of the detainees were released between January and February 2010, but the six above-mentioned individuals remain in detention at the time of writing of the present report. In the process of documenting this case, the Panel interacted with, among others, eyewitnesses and relatives of the detainees, human rights defenders, Government officials at both the national and state levels, and international monitors.

(c) Right of reply accorded to the Government of the Sudan

152. The responses of Government officials in El Fasher and Khartoum to inquiries by the Panel were contradictory. First, alleging possible threats against the lives of the six detainees, the Acting Chief of NISS in El Fasher informed the Panel that the six individuals were in custody "for their own safety". However, he later stated that the detainees were to remain in custody indefinitely until a confession had been obtained. According to the NISS interlocutor, only the Wali of Northern Darfur could order their release. When the Panel provided the right of reply to the Panel's main Government focal point in Khartoum, the latter provided a written answer to the effect that the detainees were not in NISS custody but, rather, in police custody awaiting trial. Evidence and information obtained by the Panel strongly indicate that the six detainees remain in NISS custody indefinitely without having been charged or seen by a prosecutor, who is required to hold records of all detentions and is legally responsible to inspect all places of detention on a daily basis.[15]

(d) Legal framework

153. Since Darfur is under a state of emergency, the Government of the Sudan, under certain conditions stipulated by law, can lawfully suspend some human rights in accordance with its national legislation.[16] However, in accordance with the same national legislation and in line with article 4 of the International Covenant on Civil and Political Rights, certain human rights cannot be lawfully suspended or derogated even in a public emergency. Those rights include the right to life, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and certain elements of the right to a fair trial, such as the presumption

[15] 1991 Criminal Procedural Act of the Republic of the Sudan, art. 81.

[16] Interim National Constitution of the Republic of the Sudan, art. 211.

of innocence and the right to challenge the legality of a detention before a court.[17] The Government of the Sudan, then, has the duty to comply with its obligation under both national and international law regarding the conditions to be met for the suspension and derogation of human rights in states of emergency.

(e) Findings and observations

154. The Panel notes that:

- By depriving the six individuals of the right to challenge the legality of their detention, the Wali of Northern Darfur has violated their right not to be subjected to arbitrary arrest and detention and their right to a free trial
- By not allowing the detainees to be seen by a special prosecutor as stipulated in the National Security Act, NISS has violated the right of the detainees to challenge the conditions of their detention
- No compensation was paid to individuals wrongly detained between August 2009 and February 2010

4. Right to freedom of expression and right to freedom of political affiliation

155. The Panel received several reports of alleged violations of the rights to freedom of expression and to freedom of political affiliation in the context of the April 2010 elections. The Panel received information that a community leader from El Serif, Northern Darfur, was detained on the grounds of his political opinions and political affiliation. The community leader, who belonged to the Bani Hussein tribe, was known in El Serif as being against the candidacy of the current Wali of Northern Darfur.

156. The Panel believes that the arbitrary arrest and detention of the six omdas referred to above (see para. 151) is also linked to the violation of the right to freedom of expression and the right to political affiliation of those community leaders. All the Fur individuals were known within their communities to be supporters of SLA/AW and opponents of the Wali of Northern Darfur and his candidacy on the National Congress Party ballot at the time. The arbitrary arrest under the State of Emergency Law of the six individuals culminated in several acts of harassment and intimidation against them by the local government of Northern Darfur. Another example in this context is the case, documented by the Panel during the previous mandate, of the arbitrary arrest and detention of one of the six community leaders for publicly speaking in support of the indictment of the President of the Sudan by the International Criminal Court.[18]

5. Right to effective remedy for serious violations of human rights

(a) Overview

157. With regard to the right to effective remedy for serious violations of human rights, the Panel continued to receive allegations that the right to effective remedy is

[17] Human Rights Committee, General Comment 29, para. 16: "As certain elements of the right to a fair trial are explicitly guaranteed under international humanitarian law during armed conflict, the Committee finds no justification for derogation from these guarantees during other emergency situations."

[18] S/2009/562, para. 298.

not accorded to victims of human rights abuses or to their families. In over 80 cases of arbitrary arrest and detention by NISS documented by the Panel during the current mandate or followed up from the previous mandate, none of those interviewed informed the Panel that their detention, and in some cases torture, was investigated by the Government authorities.

(b) Immunity of security and uniformed personnel

158. One of the most persistent challenges to the fulfilment of the right to effective remedy in Darfur is the immunity of security and uniformed personnel. This type of immunity is initially provided by domestic legislation in relation to individuals who belong to the armed forces,[19] are law enforcement officers[20] or members of the national security apparatus.[21] There are administrative guidelines for the lifting of immunity; however, the procedure is slow and requires to be processed in Khartoum.

159. In practice, the immunity of security and uniformed personnel in Darfur has turned into a tool that encourages impunity, preventing the prosecution of security personnel, police and soldiers who allegedly perpetrated crimes in Darfur. The Panel is unaware of any case where victims of arbitrary arrest and detention or victims of torture and ill-treatment were accorded the right to effective remedy. The Panel is also unaware of any case where the Government of the Sudan brought to justice an NISS perpetrator of human rights violations, or where the Government of the Sudan compensated victims of human rights violations committed by NISS.

(c) Right of reply accorded to the Government of the Sudan

160. The Panel has requested information from the Government of the Sudan on its implementation of the right to effective remedy and requested information on human rights cases where perpetrators have been brought to justice and reparations made to victims. In response, the Government of the Sudan provided the Panel with a general statement to the effect that NISS has an elaborate system that allows for complaints to be addressed. Without giving actual examples of cases where perpetrators of human rights violations from among the ranks of NISS were brought to justice, the Government of the Sudan informed the Panel that some officers had been punished and some had even been executed.

D. Sexual and gender-based violence

161. Sexual and gender-based violence has been one of the most persistent human rights violations in the context of the Darfur conflict. In the preamble to resolution 1891 (2009), the Security Council demanded an immediate and complete cessation

[19] Armed Forces Act of the Republic of the Sudan, 2007, art. 34 (2), provides immunity to military personnel from criminal prosecution for any offence committed in discharge of official duties or in compliance with lawful superior orders.

[20] The Police Act of the Republic of the Sudan, 2007, art. 45 (1), states that criminal procedures and trial may not be initiated against any policeman who committed an act deemed to be a crime during his official duties, except with permission issued by the Minister of the Interior.

[21] The National Security Forces Act of the Republic of the Sudan, 1999, art. 33, grants immunity to members of the security forces against ordinary civil or criminal proceedings for any act connected with official duties.

by all parties to armed conflict in Darfur of all acts of sexual violence against civilians, in line with resolution 1888 (2009). The Government of the Sudan has the affirmative duty by virtue of its international and domestic legal obligations[22] to protect the human rights of individuals in Darfur and elsewhere in the Sudan, including the protection of women from sexual and gender-based violence. This duty extends to armed rebel groups in control of territories in Darfur. During the current mandate, the Panel carried out field missions to 15 different localities in the three states of Darfur, including 11 camps for internally displaced persons, and documented 22 alleged cases of sexual and gender-based violence. The Panel obtained and verified all the relevant information through direct interviews with alleged victims and their families, eyewitnesses, community leaders, Government officials and international monitors.

162. The Panel's research indicates that sexual and gender-based violence continued to occur in all three states of Darfur during the current mandate, especially targeting internally displaced women. The most prevalent forms of such violence were physical assault, sexual assault and rape. Incidents of such violence occurred especially when women were carrying out livelihood activities, such as collecting firewood and hay, and carrying out farming and construction (mainly brick-making) activities. Women usually stayed in groups during such activities and were often attacked and robbed when in those groups. Women were also beaten and sometimes shot during the incidents, with some of them being captured and subsequently raped or gang-raped. The 22 cases documented by the Panel involved about 300 women. The Panel also documented several cases of internally displaced women being assaulted and raped while working as maids in houses in nearby cities.

163. Most women interviewed by the Panel in the 22 documented cases stated that they had not reported the attacks on them to the national police and/or the UNAMID police for fear of social stigma and stereotyping within their communities. Alleged victims also stated their perception that the police would not properly investigate perpetrators and that perpetrators would not be tried before a court and, consequently, enjoyed impunity for their actions. According to the women interviewed by the Panel, the profiles of the perpetrators included armed uniformed personnel, such as the Border Guards and CRP, armed men in civilian clothes, unarmed men in civilian clothes and unknown armed Arab militiamen. The Panel notes in this context that it was not able to interview women in territories controlled by rebels.

164. The Panel is aware of reports by the Government of the Sudan and international monitors indicating a decrease in reported cases of sexual and gender-based violence. The Panel makes a distinction, however, between reported cases and others that go unreported. The assertion made by the Government and other actors that a decrease in reported cases signals a decrease in incidents of sexual and gender-based violence in Darfur may be misleading. Specifically, the Panel did not observe any dramatic improvements in the security situation of women who live in camps for internally displaced persons or in rural Darfur, or in the capacity of the

[22] These include the legal obligations to fulfil commitments under ratified treaties, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and the four Geneva Conventions of 1949.

relevant actors to protect women and prevent sexual and gender-based violence. In addition, the Panel did not observe significant improvements in the administration of justice system in relation to the reported cases. While the Panel is unable to quantify incidents of sexual and gender-based violence in Darfur, its research indeed indicates that the actual number of such cases is higher than the number of cases reported to the Government police and/or the UNAMID police. The research also indicates that the overall decrease in the number of reported cases may be less a result of there actually being fewer cases than of fewer victims being willing to report their ordeals.

165. To elaborate, the Panel's research indicates a decreased incentive for victims to report cases, because they no longer have access to support they previously received in terms of treatment, psychosocial support, referral services and non-food items from the international non-governmental organizations that were expelled from Darfur in March 2009. On 4 March 2009, the Government of the Sudan expelled 13 international non-governmental organizations from Darfur that it alleged to have propagated lies about the prevalence of sexual and gender-based violence in Darfur. Following the expulsions, most of the health clinics operated by those organizations were handed over to the Ministry of Health. However, the quality of treatment provided in the now Government-run health clinics is perceived by the internally displaced women interviewed by the Panel to be lower than that previously provided. Furthermore, those women stated that they did not trust the clinics, since they were run by the Government of the Sudan. The expulsion of the international non-governmental organizations thus contributed to limiting the incentives for victims to report their cases and may provide an at least partial explanation for the decrease in the number of cases reported to the national police and/or the UNAMID police.

IX. Financing of non-governmental actors

A. Overview

166. The insecurity in the three states of Darfur is not only caused by armed clashes between SAF and rebel groups, but also by attacks on commercial and Government convoys, the frequent kidnapping of peacekeepers and international humanitarian aid workers and rampant hijacking of motor vehicles. During the current mandate, the Panel considered these types of incidents with a view to ascertaining whether they were a source of financial support to non-governmental actors in the Darfur conflict. In the present section of the report, the Panel provides its findings in this regard. It also presents its findings in relation to a complaint received from an international non-governmental organization about having been misrepresented under the previous mandate.

B. Attacks on commercial and Government convoys

167. The Panel considers attacks on commercial and Government convoys to be a clear source of insecurity in Darfur and notes that these attacks also claim the lives of civilians, especially drivers of commercial vehicles, in Darfur. The Panel received reports of such attacks from a variety of sources and confirmed that some of the

attacks were instigated by rebel groups. The Panel documented several of these attacks and provides summary information in table 6 below on these, as well as on attacks in 2009, in Darfur.[23] Two case studies of attacks are also presented below for illustrative purposes. The information collected for the two case studies derives from sources that included interviews by the Panel with individuals present during the attacks.

Case study 1: Attack on a Central Reserve Police convoy, 18 November 2009, Northern Darfur

168. On 18 November 2009, a CRP convoy coming from Mellit and carrying fuel, salaries and other logistical supplies for the CRP personnel in Malha was attacked north-east of Sayah on its way to Malha, Northern Darfur. The attackers, a local SLA faction, are said by the Government of the Sudan to have killed 29 CRP personnel and to have wounded and taken hostage several others, as well as destroying two vehicles carrying food and salaries. The arrival, two hours later, of CRP reinforcements from Malha reportedly led to the withdrawal of the attackers as well as the retrieval of a fuel tanker previously captured by the attackers. CRP was also able to take back the abducted CRP personnel. Members of the rebel group who participated in the attack and were interviewed by the Panel confirmed the attack and stated that they had lost two combatants during the fighting.

Case study 2: Attack on a Central Reserve Police-protected convoy, 13 May 2010, Southern Darfur

169. On 13 May 2010, a convoy coming from Khartoum and carrying fuel and commercial supplies was attacked in the area of Sani Afandou between Yasin and Marla on the way to Nyala, in Southern Darfur. The convoy was escorted by CRP and, initially, by two Government helicopters. At around 3 p.m., after the departure of the helicopters, the convoy was attacked by JEM. The attack resulted, according to information collected by the Panel, in the deaths of 15 members of CRP and two civilians, as well as the capture by JEM of fuel tankers and trucks carrying various supplies. Truck drivers in the convoy who were interviewed by the Panel reported that JEM had told them it was not interested in hurting or killing the civilians in the convoy. Nevertheless, JEM is alleged to have stolen money and mobile phones that the drivers were carrying. JEM confirmed to the Panel that it had clashed with Government forces in the said area around the date mentioned, but categorically denies ever having attacked commercial convoys or having robbed civilians in any such convoys.

Table 6
Overview of attacks on commercial and Government convoys from January 2009 to May 2010

Date of attack	*Perpetrators*	*Number of trucks*	*Area*	*State*
09/01/09	Unidentified gunmen	1 truck loaded with various supplies	Between Thur and Nertiti	Western Darfur
08/05/09	Unidentified gunmen	3 trucks with commercial supplies	Saraf Majin	Western Darfur

[23] Source of information: UNAMID and interviews with individuals present during attacks.

Date of attack	*Perpetrators*	*Number of trucks*	*Area*	*State*
18/11/09	SLA faction	1 fuel truck and 9 trucks with logistical supplies	Sayah	Northern Darfur
29/11/09	Unidentified gunmen	2 trucks with commercial supplies	Abu Ramla	Southern Darfur
18/01/10	Unidentified gunmen	7 trucks with various commercial supplies and 3 fuel tankers	Sania Afandu	Southern Darfur
23/01/10	JEM	7 commercial trucks contracted by the Supreme Group	Abu Gamra	Northern Darfur
13/05/10	JEM	6 to 11 fuel tankers and 2 trucks carrying commercial supplies	Sania Afandu	Southern Darfur

170. As shown in table 6, three of the seven attacks were perpetrated by rebel groups: JEM (two attacks) and an SLA faction (one attack). Four attacks were perpetrated by unidentified gunmen. The attackers targeted convoys carrying fuel and food items. The Panel notes, in this context, reports it received that indicate JEM uses such attacks, and especially the capture of fuel trucks, as an increasingly important source for maintaining its activities and mobility in Darfur. This argument is supported by the assumption that JEM, following its alleged expulsion from eastern Chad in the framework of the normalization of relations between Chad and the Sudan, no longer enjoys access to certain resources it may previously have benefited from in Chad. The Panel also notes that both attacks attributed to JEM since January 2010 took place after its alleged crossing from Chad into Darfur.

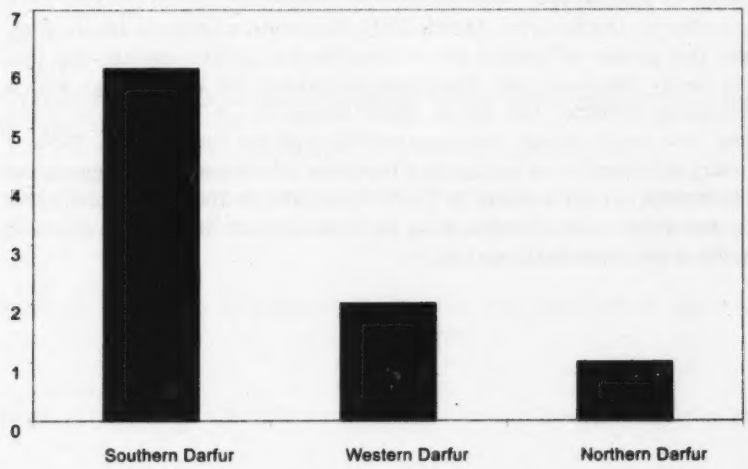
C. Kidnappings of peacekeepers and international humanitarian aid workers in Darfur

171. Kidnappings of peacekeepers and international humanitarian aid workers have increased in number in Darfur since March 2009. Government reports received by the Panel claim that groups of bandits are responsible for the kidnappings and that their motive is purely financial gain. The Panel considered the kidnappings with a view to ascertaining whether the actors were linked to or belonged to rebel movements and how much money was acquired through the kidnappings. Table 7 provides summary information on kidnapping incidents relating to peacekeepers and international humanitarian aid workers in Darfur from March 2009 to August 2010. Figure I shows the distribution of kidnapping incidents in each of the three states of Darfur during the above-mentioned period.

Table 7
Incidents of kidnapping of peacekeepers and international humanitarian aid workers in Darfur since March 2009

Incident number	*Date of incident*	*Date of release*	*Number of days in captivity*	*Number of victims*	*Nationality*	*Agency*	*Location*
1	11/03/09	14/03/09	4	3	Canadian, Italian, and French	Médecins Sans Frontières	Saraf Omra, Northern Darfur
2	04/04/09	29/04/09	26	2	French and Canadian	Aide Médicale Internationale	Ed el Fursan, Southern Darfur
3	02/07/09	18/10/09	109	2	Irish and Ugandan	GOAL	Kutum, Southern Darfur
4	29/08/09	13/12/09	107	2	Nigerian and Zimbabwean	UNAMID	Zalingei, Western Darfur
5	22/10/09	18/03/10	147	1	French	International Committee of the Red Cross	El Geneina, Western Darfur
6	11/04/10	26/04/10	16	4	South African	UNAMID	Nyala, Southern Darfur
7	18/05/10	30/08/10	105	1	United States of America	Samaritan's Purse	Abu Ajura, Southern Darfur
8	23/06/10	27/07/10	34	2	German	Technisches Hilfswerk	Nyala, Southern Darfur
9	14/08/10	17/08/10	4	2	Jordanian	UNAMID	Nyala, Southern Darfur

Figure I
Kidnapping incidents in Darfur since March 2009



172. As is indicated in figure I, 66.7 per cent of the kidnappings took place in Southern Darfur while 22.2 per cent and 11.1 per cent occurred in Western Darfur and Northern Darfur, respectively. Southern Darfur thus has the highest number of kidnappings of the three states of Darfur. Furthermore, as shown in table 7, four kidnapping incidents occurred in the 10-month period from March to December 2009. In contrast, five such incidents have already occurred in the first eight months of 2010.

173. The Panel concentrated its research on the kidnapping of two civilian peacekeepers from Zalingei on 29 August 2009 and the kidnapping of four police advisers in Nyala on 11 April 2010. In both cases, the Panel interviewed victims of the incidents and arrived at the following findings.

174. First, the account of the two civilian peacekeepers kidnapped in Zalingei suggests that members of an Arab militia group formally associated with the Government of the Sudan were responsible for the kidnapping.

175. Second, the Panel learned that the perpetrators of the kidnapping of the four police advisers in Nyala were not associated with any specific rebel group or other belligerent in the Darfur conflict. They were, however, also responsible for the kidnapping of a French national in El Geneina, Western Darfur, on 22 October 2009 and the attack on a convoy of Pakistani UNAMID peacekeepers on 16 February 2010 in Nyala, Southern Darfur. The interviewed victims informed the Panel that the perpetrators were aware that UNAMID would not pay a ransom, but expected the Government to pay a ransom for the release of the victims.

176. Through additional research, the Panel learned that the Government of the Sudan took responsibility for negotiating the release of the hostages taken in some of the kidnapping incidents on the condition that it would not pay a ransom for the release of the hostages. The Government of the Sudan informed the Panel that, on average, the perpetrators made ransom demands of 2 million United States dollars in each kidnapping incident. It also stated that it had never paid a ransom in any of the kidnapping incidents, although it had given perpetrators a total of between 75 and 125 United States dollars to cover the expenses incurred in feeding the hostages for the duration of their captivity.

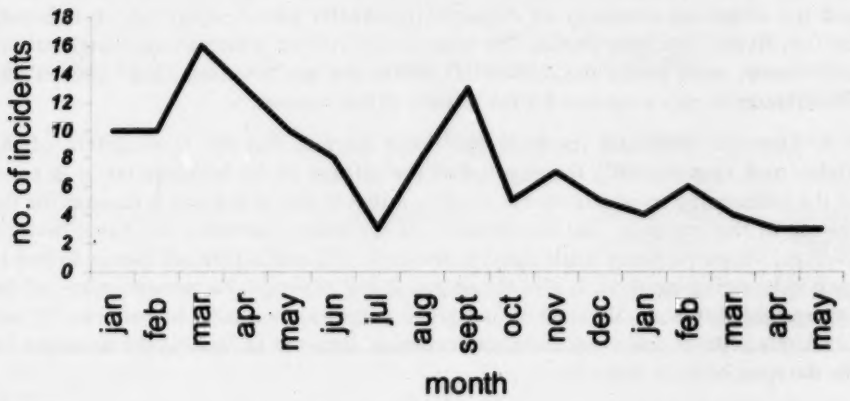
177. The Panel finds that the continuing kidnappings are committed by multiple actors. Whether committed by bandits, rebel movements or other present or former belligerents in the Darfur conflict, it undermines security in Darfur. The Panel also notes that they occur despite claims by the Government of the Sudan that no ransom is ever paid for the release of victims and, consequently, kidnapping would not be a financially lucrative business. At the same time, the Government of the Sudan ruled out any political agenda as a possible motive for the kidnappings.

178. Indeed, although the Panel was unable to verify whether any ransom was ever paid in the kidnapping incidents, it believes that the perpetrators may benefit financially to a greater extent than suggested above; otherwise, the kidnapping would seem unlikely to continue to take place in Darfur. The proceeds received from kidnapping can be used to support armed non-governmental actors who are or were involved in the Darfur conflict. This is illustrated by the fact that the kidnappers identified in one of the two cases presented above were members of a group formerly considered as a belligerent in the conflict.

D. Carjacking

179. Carjacking in the three states of Darfur is rife. Research by the Panel indicates that, on average, a vehicle belonging to UNAMID, a United Nations agency or an international non-governmental organization is carjacked every four days in Darfur. The Panel looked into the incidents of carjacking to ascertain whether they were purely isolated criminal acts or provided a source of material support for the activities of rebel groups. In total, 130 vehicles belonging to UNAMID,[24] a United Nations agency or an international non-governmental organization were carjacked during the period from January 2009 to the end of May 2010. Thirty motor vehicles were hijacked in Northern Darfur, 43 in Southern Darfur and 57 in Western Darfur. Only 17 of the vehicles were recovered and this mostly within 48 hours after being hijacked. The graph in figure II shows carjacking incidents in the three states of Darfur in the above-mentioned period. While the graph indicates a decline in the number of incidents per month, carjacking continues to occur in Darfur.

Figure II
Carjacking incidents in Darfur from January 2009 to May 2010



180. The Panel notes that the hijacking of vehicles by armed men in Darfur has resulted in the death of the victims in several instances. One such event occurred on 7 May 2009; at about 8.30 p.m., a military staff member of UNAMID was shot by unknown armed men at his accommodation in Nyala while arriving home. The gunmen left with a Toyota Land Cruiser belonging to UNAMID. The UNAMID staff member later died.[25]

181. The information received by the Panel on carjacking indicates that the main driving force behind the incidents is financial gain. The information received by the Panel does not support allegations of a direct link between such incidents and the activities of current rebel groups; rather, the hijackings of cars appear to be perpetrated by criminals. There are indications that they include criminals who were members of militias previously associated with the Government, as well as of rebel

[24] Source of information: UNAMID.
[25] Source of information: UNAMID.

groups that signed the 2006 Darfur Peace Agreement and who are, in both cases therefore, non-governmental actors previously considered to be belligerents in the Darfur conflict.

182. On a positive note, the Panel points to the Joint Border Force created by Chad and the Sudan early in 2010 to monitor their common border. According to commanders of this force who were interviewed by the Panel in El Geneina, its activities have enabled vehicles hijacked in Darfur to be recovered in Chad and to be sent back to their owners in some instances.

E. Complaint regarding alleged provision by a non-governmental organization of support of a rebel group

183. The Panel refers to the not-for-profit organization Darfur Hilfe mentioned in paragraphs 211 to 214 of the report (S/2009/562) submitted in accordance with resolution 1841 (2008). With reference to those paragraphs, the Panel received a letter of complaint, dated 14 December 2009, from the organization concerned. In the letter, it was stated that the above-mentioned report suggested that the organization supported JEM and that the schools it supported did not exist. It was also stated in the letter that the organization had not been accorded a right of reply, as was required by the methodology outlined in that report.

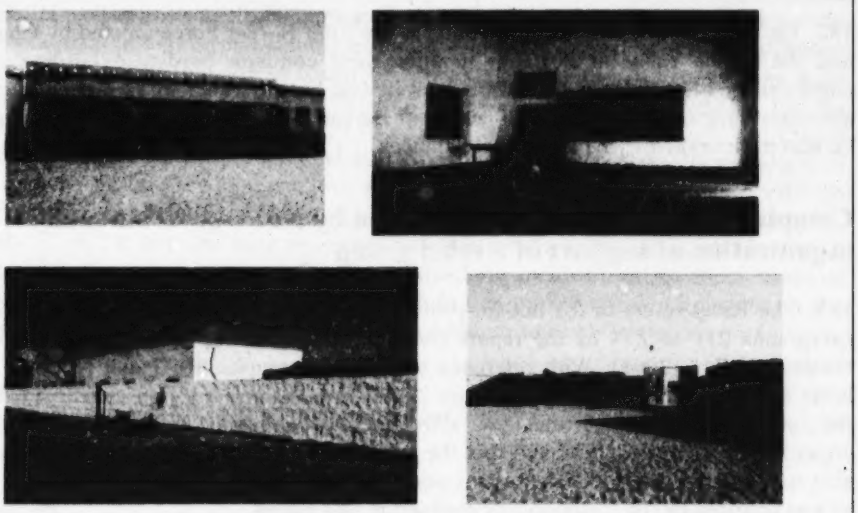
184. The Panel was willing to consider the complaint, but noted for the record that Darfur Hilfe had indeed been afforded a right of reply. The organization did not, however, respond to the questions raised in time for the finalization of the report submitted pursuant to resolution 1841 (2008). Irrespective of that, the Panel notes that the presence of Darfur Hilfe in Tine, Chad, was difficult to ascertain because it is not registered with the competent Chadian authorities. In addition, most of the humanitarian agencies operating in Chad that were contacted by the Panel were not aware of the operations of Darfur Hilfe.

185. In interviews with members of the organization, the Panel learned that membership of Darfur Hilfe is open to everyone. The Panel was also informed that there could be individuals volunteering with Darfur Hilfe who also supported JEM, but that any such affiliation with JEM would not influence the operations of the organization. One individual of particular interest to the Panel in this regard, owing to his being named as being the webmaster of the JEM website as well as a volunteer with Darfur Hilfe, confirmed to the Panel that he had affiliations with both JEM and the organization. The Panel notes, however, that the same person also asserted that there was no link between JEM and Darfur Hilfe as an organization.

186. In addition, the Panel confirmed the existence of a school built with the support of Darfur Hilfe in Tine, Chad, in 2007,[26] during a visit to that location (see box 3 below; photos taken by the Panel, 20 April 2010). In interactions with the Panel, one of the school's teachers and the mayor of Tine, Chad, attested to Darfur Hilfe's support of refugee schools in Tine and said that they had no knowledge of Darfur Hilfe being affiliated with JEM or even supporting JEM. The financial inquiry conducted by the Panel confirmed the support of Darfur Hilfe for schools in Tine.

[26] The construction of the school was confirmed by the Mayor of Tine and a teacher at the school. The school is located at 15°0'57.22"N and 22°47'34.22"E.

Box 3
Al Kifah mixed school, Tine, Chad



187. The Panel concludes, therefore, that the evidence gathered confirms that the organization Darfur Hilfe is supporting the operation of the schools in Tine, Chad, and this brings to a close the investigations that were carried out by the Panel on that organization.

X. Implementation of the travel ban and assets freeze

188. In resolution 1672 (2006) the Security Council designated four individuals as being subject to the travel ban and assets freeze. In response to requests for information on the implementation by the Government of the Sudan of those measures, the Panel was merely informed that the designated individuals did not have bank accounts or any other assets to freeze. The Panel requested that the Government arrange a meeting with two of the designated individuals, whom the Panel believes to be on the payroll of the Government. The meeting with the two designated individuals never took place and the Government of the Sudan also did not provide a response on any steps taken to implement the sanctions.

189. The Panel learned that there have been some new developments concerning the aforementioned two designated individuals who are believed to be on the Government's payroll:

- Major General Gaffar El Hassan was among the five top-ranking generals who were reportedly sent into retirement by the President of the Sudan at the beginning of June 2010.
- Sheikh Musa Hilal was appointed as an adviser to the Federal Ministry in the Government of the Sudan in January 2008. He was elected as a Member of Parliament representing Darfur in April 2010.

190. The Panel did not gain access to sufficient information to determine whether the Government of the Sudan has been implementing its obligations in relation to the four individuals designated in resolution 1672 (2006). The Panel notes, however, that the Government of the Sudan informed the Panel in a meeting that it did not recognize the legitimacy of the resolution in relation to at least two of the designated individuals.

XI. Assessing progress towards removing impediments to the political process

A. Background

191. In resolution 1891 (2009), the Security Council requested the Panel to assess progress towards removing impediments to the political process. At the beginning of the present mandate, the main obstacles identified by the Panel as impeding such progress were the following:

- Lack of political will on the part of the Government of the Sudan and rebel groups to settle the conflict peacefully, with aerial bombardments on the part of the Government and ground clashes between SAF and various rebel groups
- Fragmentation of rebel groups (JEM, SLA/AW, SLA/Unity, SLA/Unity/Juba and approximately 20 other groups)
- Lack of a viable venue for negotiations agreed upon by all parties
- Continued conflict between Chad and the Sudan, with the former providing support to JEM and the latter to Chadian armed opposition groups

192. The first five months of the current mandate witnessed significant progress in the political process, with some of the above-mentioned obstacles successfully tackled by the mediators.

B. Unification of armed groups

193. Efforts in both Tripoli and Addis Ababa to unify the various rebel groups bore fruit with the amalgamation of nearly 18 rebel groups into just two groups, willing to negotiate peace with the Government of the Sudan: the Tripoli Group in the Libyan Arab Jamahiriya and the Road Map Group in Ethiopia. The two newly unified groups converged on Doha where efforts for further unification were made. Most members of the two groups merged into a larger group which came to be known as the Liberation and Justice Movement (LJM). A smaller Road Map Group led by SLA/Unity opted to remain independent and is reportedly trying to find an alternative to having to merge with JEM or LJM, the only two tracks the mediators are willing to offer. After the unification process, the four major movements claiming to represent Darfurians are now JEM, SLA/AW, SLA/Unity and LJM.

194. SLA/AW remains outside the Doha peace process. Citing the failure of Abdulwahid Nour to either provide them with support or join the peace process, a number of SLA/AW field commanders rebelled against him. Clashes between those field commanders and forces loyal to Abdulwahid Nour continued in April 2010 in

the area of Jebel Marra. The anti-Abdulwahid Nour commanders eventually joined the Doha process as part of LJM.

C. Chad-Sudan agreement and normalization of relations

195. In January 2010, the Governments of the Sudan and Chad signed a border monitoring agreement in N'Djamena aimed at preventing rebel groups from launching attacks from their respective territories, as reportedly had occurred in the past in parallel to the Darfur conflict. As noted previously, this normalization of relations allegedly resulted in JEM relocating from Chad to Darfur and Chadian armed opposition groups relocating from the border in Western Darfur to the area of Mellit, deep in the state of Northern Darfur. At the time of writing the present report, the Panel received reports that the Chadian armed opposition groups are now being repatriated from Northern Darfur back to Chad under a presidential pardon.

D. Signing of framework agreements

196. On 23 February 2010, the Government of the Sudan and JEM signed a framework agreement for the purpose of establishing a ceasefire and facilitating conditions for a final peace agreement. Claiming to be both the sole representative of Darfurians and the only militarily significant rebel group on the ground in Darfur, JEM insisted that no other framework agreements between the Government and any other group should be signed. According to JEM, any group interested in participating in the talks had to join JEM. JEM threatened to withdraw from the peace process if its conditions were not met. Despite such threats, the Government of the Sudan and LJM signed a similar framework agreement on 18 March 2010.

E. Setback to the Doha process

197. While their representatives were in Doha, SAF and JEM clashed on the ground in Darfur, with SAF claiming that JEM was moving in Darfur in violation of an alleged understanding between the Government of the Sudan and JEM that the latter would stay in a designated area in Wadi Hawwar, Northern Darfur, only. Aerial bombardments by SAF of JEM positions in Jebel Moon and the clashes between the two belligerents, which resulted in JEM withdrawing from Jebel Moon, led to the departure of JEM from Doha and its withdrawal from the peace process. At the time of drafting of the present report, only LJM remains in Doha. Hostilities continued between JEM and the Government of the Sudan, with the former carrying out guerrilla warfare after losing its bases in Jebel Moon and the latter carrying out aerial bombardments and ground attacks against JEM mobile forces. In response to a query regarding its position vis-à-vis the peace process, JEM informed the Panel that it had not withdrawn from the peace process but, rather, had frozen its participation in the peace talks because of dissatisfaction with the process.

F. Prospects for a peace agreement and initiation of a comprehensive political process

198. While two of the most prominent armed rebel movements, JEM and SLA/AW, continue voluntarily to remain outside the Doha peace process, it still offers the framework for a possible peace agreement between the Government of the Sudan and LJM.

199. The Doha negotiations between belligerents are complemented by a civil society track based on consultations among leaders of Darfurian communities. In May 2010, the African Union tasked UNAMID with facilitating a comprehensive political process on the ground in Darfur, with the aim of complementing the Doha peace process.

200. Meanwhile, a parallel process carrying the promise of peace has been taking place in Western Darfur in the form of direct negotiations between the Government of the Sudan and two rebel splinter groups, the Justice and Reforms Movement (JRM) and SLA/Frees, which had split from JEM and SLA/AW respectively and formed the Frees and Reforms Movement (FRM).

G. Challenges to the peace and political processes

201. While some of the obstacles existing at the beginning of the Panel's mandate have been dealt with, others persist. They include:

- Lack of political will on the part of the Government of the Sudan, JEM and SLA/AW to settle the conflict peacefully, with aerial bombardments by the Government, ground clashes between SAF and JEM, and SLA/AW refusing to join the process. The Panel notes in this context the reports it received from LJM that Government of the Sudan forces attacked a LJM position in eastern Jebel Marra in August 2010. If the reports are correct, this attack took place after the signing of the renewal of the ceasefire implementation protocol between the two parties in June. The Panel notes that such action by the Government may result in the fragmentation of LJM and the possible renewal of hostilities in Darfur.
- The Road Map groups headed by SLA/Unity, which refused to join the groups that signed the two framework agreements, see no role to play in Doha. According to SLA/Unity,[27] although it has fundamental disagreements with both JEM and LJM, the mediation process does not allow for participation independently of the two framework agreements.
- Efforts to engage civil society in the political process, while necessary for the achievement of a comprehensive peace, have divided Darfurians into pro- and anti-Doha. This shoulders UNAMID with a tremendous burden. The cases of the recent clashes between anti-Doha and pro-Doha Fur in the Kalma camp for internally displaced persons, Southern Darfur, are a clear example of the pressure that the Mission has to endure from both sides.

[27] Telephone interview with Secretary of SLA/Unity for Foreign Affairs, 26 August 2009.

XII. Recommendations

202. There are numerous actions which the international community could and should take to strengthen its contribution to peace and stability in Darfur. Likewise, there are actions that should be taken by the Government of the Sudan and the Governments of neighbouring States, as well as by rebel groups and other non-governmental actors operating and causing insecurity in Darfur. Notwithstanding the above, the following recommendations are limited to the principal actions that the Security Council should consider with a view to further promoting a peaceful settlement of the conflict and an improvement in the humanitarian situation of civilians in Darfur. Specifically, the Security Council is encouraged to take the following action.

1. The arms embargo

203. The Security Council should clarify the scope of the current embargo on arms and other military materiel imposed in relation to Darfur. In this context, the Security Council should clearly set out the exemptions that exist which do not require prior approval by the Committee and those which require such approval. It is recalled that the Government of the Sudan claims that the embargo on its forces in Darfur only pertains to materiel that is transferred to SAF for the purpose of engaging rebel groups and that, even then, materiel that is brought into Darfur by forces repatriated from outside Darfur is excluded from the embargo.

204. Irrespective of the above, the Security Council should impose an embargo on the sale or supply of military materiel to the Government of the Sudan, whether the materiel is for use in Darfur or not. The embargo should remain in place until the Government of the Sudan provides the Committee with verifiable proof that materiel documented in the hands of Government forces in Darfur was not transferred to those forces in violation of the arms embargo and/or in violation of end-user and end-use undertakings given to the State(s) from which the materiel was imported.

205. The Security Council should impose an embargo on the sale or supply of military materiel to the Government of Chad. The embargo should remain in place until the latter has provided the Security Council with a satisfactory explanation of how materiel imported for its armed forces found its way into the hands of rebel groups operating in Darfur and with reasonable assurances that materiel imported or already held by the armed forces of the Government of Chad will not be diverted to belligerents in Darfur in violation of the Security Council arms embargo.

206. The Security Council should impose an obligation on any State selling or supplying military materiel to the Government of the Sudan or the Government of Chad, after the eventual lifting of the respective embargoes, to make the sale or supply of the materiel conditional on verifiable end-user and end-use documentation. Any such sale or supply should also be conditional on the exporting State notifying the Committee and providing it with full details of the export or transfer of materiel to either Government. The Security Council should impose these measures irrespective of whether or not it imposes an embargo in relation to the Government of the Sudan and/or the Government of Chad, as recommended in the two preceding paragraphs.

2. Attacks on UNAMID

207. During the current mandate, the Panel observed continued deliberate attacks against peacekeepers and humanitarian aid workers, which have hindered peacekeeping and relief efforts in Darfur. The lack of a deterrent against such attacks may be a contributing factor to the persistence of this phenomenon. Given that the thorough investigations required to address these attacks may fall beyond the mandate and capacity of the Panel, it is recommended that the Security Council:

(a) Refer the cases to a competent investigative body;

(b) Enhance the mandate and strengthen the capacity of the Panel in order to enable it to report more comprehensively on these attacks.

3. Imposition of targeted sanctions on relevant individuals

208. The Panel determined that the majority of perpetrators reported and proposed for listing under previous mandates continued to act in violation of resolutions 1556 (2004) and 1591 (2005). In the light of the fact that certain individuals have been proposed for listing more than once and that the same individuals have been documented in the current monitoring period as continuing to commit violations of resolutions 1556 (2004) and 1591 (2005), the Panel recommends that the Security Council revisit the previous proposals for listing with a view to the possible designation of those perpetrators. The Panel emphasizes in this context that the individuals designated should include those responsible for attacks on UNAMID and humanitarian aid workers in Darfur.

4. Peace process

209. In the context of briefings by the Joint African Union-United Nations Mediator for Darfur, the Security Council should ensure that:

(a) Briefings to the Council include specific information on individuals who are impeding the peace process; and/or

(b) A dedicated briefing is provided to the Committee on individuals who are impeding the peace process.

5. Past recommendations of the Panel

210. The Panel recalls the recommendations made in its previous reports. Many of those recommendations remain pertinent to the situation in Darfur and should be revisited and considered by the Committee for action.

Annex I

List of meetings with interlocutors (non-exhaustive)

Chad

Government agencies
- Civil Aviation Authority
- Ministry of Foreign Affairs
- Ministry of the Interior
- Local government officials in Abeche

United Nations
- United Nations Mission in the Central African Republic and Chad (MINURCAT)
- Other United Nations agencies

Several international non-governmental organizations

Germany

Darfur Hilfe

Human rights activists of Sudanese nationality living in Germany

Qatar

Government agencies
- Ministry of State in the Office of the Emir
- Other government officials

Joint Mediation Support Team

Representatives of various rebel groups, including:
- Justice and Equality Movement
- Liberation and Justice Movement
- Sudan Liberation Army/Unity

Sudan

Government agencies
- Civil Aviation Authority
- Customs Authority
- Ministry of Defence
- Ministry of Finance
- Ministry of the Interior
- National Intelligence and Security Service
- Governors (Walis) of Northern, Southern and Western Darfur
- Other local government officials (prosecutors and local police, among others)

United Nations
- United Nations Mission in the Sudan (UNMIS)
- African Union-United Nations Hybrid Operation in Darfur (UNAMID)
- Other United Nations agencies

Joint African Union-United Nations Chief Mediator

Representatives of camps for internally displaced persons
- Abshok
- Al Salam
- Atash
- Hamidya
- Hasa hisa
- Kalma
- Masterei
- Zam zam

Community leaders

Local non-governmental organizations

Witnesses to torture

Victims of kidnappings and carjackings

Several rebel groups in Darfur

International non-governmental organizations working in the Sudan/Darfur

Several missions of foreign states in the Sudan

United Kingdom of Great Britain and Northern Ireland

Darfur Union

Human rights activists

Justice and Equality Movement

Sudan Liberation Army/Abdul Wahid faction

United States of America

United Nations
- Department of Peacekeeping Operations
- Department of Political Affairs
- Office of Legal Affairs
- Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict

Office of the Permanent Observer of the African Union to the United Nations

Office of the Permanent Observer for the League of Arab States to the United Nations

Several international non-governmental organizations

Annex II

Summary of outgoing communications sent by the Panel of Experts

Date	*Addressee*	*Subject*
13 January 2010	Sudan	Visit to Sudan; visa assistance
18 January 2010	Sudan	Visa assistance
18 January 2010	Chad	Visit to Chad; contact details for focal point in N'Djamena
20 January 2010	Ethiopia	Travel to Ethiopia (duty station); visa assistance
27 January 2010	Sudan	Bilateral meetings with government officials *Cf. Follow-up letter addressed to Panel's government focal point dated 9 February 2010*
18 February 2010	Qatar	Visit to Qatar; visa assistance
31 March 2010	Sudan	Visa assistance
6 April 2010	Chad	Visit to Chad; contact details for focal point in Ministry of Foreign Affairs
8 April 2010	Libyan Arab Jamahiriya	Visit to Libyan Arab Jamahiriya; bilateral meetings with government officials
8 April 2010	China	Query regarding small arms ammunition
18 May 2010	Sudan	Query regarding small arms ammunition
19 May 2010	China	Query regarding small arms ammunition
19 May 2010	Belgium	Query regarding assault rifle
3 June 2010	Sudan	Visa assistance
23 June 2010	Sudan	Implementation of assets freeze
25 June 2010	Qatar	Visit to Qatar; visa assistance
30 June 2010	League of Arab States	Meeting in New York
30 June 2010	Sudan	Visit to Sudan
2 July 2010	Cyprus	Query regarding cargo onboard the MV *Santiago*
9 July 2010	Russian Federation	Query regarding military aircraft
26 July 2010	Belarus	Query regarding military aircraft
26 July 2010	Air West Cargo (Sudan)	Query regarding flights into Darfur
26 July 2010	Civil Aviation Authority (Sudan)	Query regarding registration numbers of civilian and military aircraft operating within Darfur
2 August 2010	Israel	Query regarding assault rifle and small arms ammunition
2 August 2010	China	Query regarding small arms ammunition

Date	*Addressee*	*Subject*
27 August 2010	Chad	Query regarding assault rifle and small arms ammunition
27 August 2010	Israel	Query regarding small arms ammunition
1 September 2010	Chairman of the Committee established pursuant to resolution 1591 (2005)	Transmitting information received from Cyprus authorities concerning MV *Santiago*